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THE BRITISH APPROACH TO POLITICS

by

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Quod Omnes Tangit. Ab Omnibus Approbetur
What touches all should be approved by all

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PREFACE

The aim of this book is to describe the Government of Britain, and in less detail, of the British Commonwealth and Empire; and so to set forth the nature and purpose of political activity, as it presents itself to the people of Britain through their institutions.

The book is intended for those citizens who are beginning the study of politics, whether individually or as members of adult education classes or other groups; and for the Sixth Forms of secondary schools, who, I hope, will find it useful either for examinations or as an aid to general knowledge.

The chief difficulty besetting a writer on this subject is the selection of material and the arrangement of it in due proportion. I have endeavoured to observe the following rules; first, to give chief attention to those matters over which the mass of citizens can exercise some control, and for which they bear responsibility; second, to include such detailed information about the mechanism of Government as examination syllabuses require. The intimate connection of the parts of that mechanism, one with another, makes it desirable for the reader to turn the pages back and forth—relating, for example, the material of Chapter VIII with that of the Chapters on Local Government, or the description of the Treasury in Chapter VI with the Parliamentary control of finance described in Chapter XI.

For the use of those who wish to pursue further any aspect of the subject, I have added to each Chapter a short list of books. Many of these contain matters relating to the subject of a whole Part, or of the entire book; these are marked with an asterisk.

Politics is closely connected with history and economics, and at times it has been necessary to cross the border into the domains of these sciences. Such digressions, are, however, restricted to the minimum necessary to give an intelligible introduction to the political problems of the present day. It cannot be more than an introduction. Had I attempted, for example, in the Chapter on World Affairs, to portray the whole scene of world politics, I should have been led far beyond the proper limits of this book. On these and other disputed topics, my object has been to suggest possibilities and difficulties, and to open the door for further study by the reader.

Although I have tried to avoid bias, I cannot hope to have been entirely successful. On some controversial topics I have expressed a definite point of view; but, to the best of my knowledge, I have not suppressed or distorted facts. There is, however, one

principle that I have not hesitated to champion—that of democracy. It is my hope that this book will be of use to those who wish to form unprejudiced opinions and take part in the Government of their country. Since those actions can only be performed in a democracy, the purpose of the book is necessarily democratic.

The first edition of this book appeared in 1938 and I gladly acknowledge the help given to me at that time by many friends and colleagues, notably the late Mrs. E. M. Hubback, Principal of Morley College, Mr. John Parker, M.P., Mr. L. Hill, Sir Ivor Jennings, Mr. Norman Fedrick, LL.B., Mr. E. F. Coles, B.A., and Mrs. G. Butler. My students in classes organised by the Workers' Educational Association and my pupils at the Coopers' Company's School did much to stimulate and clarify my thoughts; and the matter and arrangement of the book was largely determined by this two-fold teaching experience.

Since that date I have had the further advantages of lecturing to soldiers, whose questions and discussion were of great value; of membership of the House of Commons; and of experience as a junior Minister at the War Office and the Ministry of Supply. In preparing the edition of 1949 I encountered the welcome task of transferring references to Hitler and Mussolini to the past tense, and the wider revision necessitated by social legislation and constitutional change. Since then I have endeavoured, by lesser alterations, to amend whatever had become palpably out-dated: but it is not always possible for writing to keep pace with events. The reader should particularly bear this in mind when studying the sections concerned with nationalised industries, social services, and the Empire and Commonwealth.

London, 1954

MICHAEL STEWART

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INTRODUCTORY

CHAPTER I

THE NATURE OF POLITICS

The Purpose of Government
Sovereignty and Justice
The Use of Force
Laws and Facts
The Need for Change
States, Nations and Races
Distribution of Power in the State

THE PURPOSE OF GOVERNMENT

It is the nature of man to live in communities. He lives in this fashion in every part of the world to-day, and the evidence of history and pre-history shows how long he has done so. The reasons for this habit do not concern politics. Psychologists consider that man is moved by instincts and desires which can only find full satisfaction in community life, and economists point out that efficient production of wealth requires co-operation; therefore there are great advantages to be gained by living together. Politics starts with the fact of community life; it discusses the problems which that life creates; it also examines and compares the different kinds of community.

The central problem is liberty. When people live in a community they cannot do exactly as they please. Motorists, for example, cannot drive wherever they like without creating disorder; neither can men kill or rob whomever they please without causing society to collapse. But if men were not thus restricted, if they had, in name, the liberty to do what they liked, they would, in fact, have very little liberty. Much of their energy would be absorbed by the attempt to protect themselves, and the rest by the task of getting their living; for the general insecurity would prevent the development of any improved methods of producing wealth. Community life, therefore, means giving up certain liberties, which are liberties in name only, in order to get more liberty in fact. The 17th century writer, Hobbes, was so impressed by this aspect of politics that he made it the centre of his argument. The life of man outside society, he said, is "poor, solitary, nasty, brutish and short"—so men should always obey the Government, since any Government, however harsh, is better than none.

But while Government can thus make liberty possible, it can also, in the hands of unscrupulous people, destroy it. Such people

may use their power, not for the good of all, but to make the majority subject to their convenience; when this happens, men feel justified in overturning their Government and setting another in its place. The alternative to the Government men have is not, necessarily, no Government; they can change the kind of Government. So Government has not only the negative task of preventing disorder, but the positive task of creating the conditions of a good life; this is what the people expect from it in return for the powers they have given to it. Hence the 18th century writer, Rousseau, speaks of a "Social Contract"—an agreement, not formally made, but understood, between rulers and ruled—the latter to obey, the former to do justice. When human beings group themselves into debating societies, cricket clubs and other voluntary associations, this Social Contract is plainly written down; powers are given to the officers, and work is expected from them. But many political groupings, or States, were formed before men knew how to write, or to think as clearly as some people can to-day; rarely, therefore, has such a Social Contract been made in plain terms. It is, however, a useful idea for the criticism of forms of Government. A State may come into existence because a small number of men climb into a position from which they can control a large number; but when this majority start to ask "Why should we obey?", it becomes necessary to show that certain advantages follow from obedience, and this will only be true if those who control the Government do so for everyone's advantage, and not solely for their own.

SOVEREIGNTY AND JUSTICE

Two important facts follow about good Government. First, it must be strong enough to make itself obeyed and to carry out the duties of administration efficiently. Second, it must not be so strong that it can do just as it likes, and cannot be compelled to fulfil its part of the Social Contract. Dictators have accused democracies of not satisfying the first condition, and democrats reply by pointing out that dictatorships do not satisfy the second. The power of a Government to make itself obeyed is called Sovereignty, and the person or persons, in a State, who have this power are called the Sovereign. In order to understand the organisation of any particular State, it is convenient to begin by finding out who is the Sovereign; but this is not always an easy task. If the question is put to a group of citizens of the U.S.A., whether each of the forty-eight States in the Union is a Sovereign by itself, a brisk argument will be started. In the Europe of the Middle Ages it is doubtful whether there was any Sovereign, since

kings controlled some matters, and the Church others, and a continual dispute raged about the division of power. The difficulties thus caused illustrate the usefulness of having a Sovereign who can say definitely what may or may not be done. Sovereigns do not necessarily exercise all the powers which, in name, belong to them. The Parliament of the United Kingdom might, if it wished, order everyone to attend a Church of England service on Sundays, as was the rule in the 16th century; but to-day it allows everyone, in this matter, to treat as Sovereign the particular Church to which he belongs, or, if he prefers, to have no Sovereign at all. Parliament acts thus because it knows that if it did not it would provoke so strong a resistance that its Sovereignty would be taken away. Sovereignty only works within the limits that people at the time think reasonable, or are prepared to tolerate. A Sovereign, therefore, is a body exercising, not all power, but the maximum power within these limits. Such a Sovereign is found in every human group—or else a state of confusion and change exists, out of which a new Sovereign will arise.

A Sovereign which fulfils its part of the Social Contract is said to do justice, and this word also needs examination. There are some happenings which illustrate it plainly enough. When Ahab and Jezebel killed Naboth in order to take his vineyard, they committed injustice. But when Solon announced that debts owing to rich landowners in ancient Attica were not to be paid, he won a reputation for wisdom. When the British Parliament in 1832 deprived some landowners of the power to say who should be Members of Parliament, the justice of their action was hotly disputed, though nearly everyone would approve it to-day. When the Spanish Republic deprived some religious orders of their property, there was, and still is, fierce controversy. So an abstract rule, that justice means not interfering with the rights and powers which people have, will not serve. The question must be put, what is the power of Government for? Its purpose is to make such a framework of rules that men can perform the business of getting their living as efficiently and happily as technical knowledge permits, and then enjoy their leisure, and develop their talents and personalities, as freely as the need to respect other people's freedom allows. Any actions of Government which help to this end are just; as ways of getting a living change, so the list of what actions are just also changes.

There is, however, one positive rule that may be laid down about justice. Although laws must be changed from time to time, they ought at any one time to be definite and known. Even a game cannot be played with someone who invents a new rule

every time he is in difficulties. No one will be eager to work on a piece of land if he does not know whether the law requires him to pay a rent or not. Certainty of the rules is a necessary condition of activity, and without activity man cannot live. When Shylock asks for justice and his pound of flesh, he means that if the laws of Venice allow contracts to be made, and then will not enforce them, business men will not come to Venice and its prosperity will decline. The court might answer that if his contract is carried out, Venice will get a name for barbarity which will do it equal harm; it would be on surer ground if it had stated beforehand that contracts involving pounds of flesh would not be enforced. Laws may be just or unjust; but uncertainty of law will always cause injustice. For this reason lawgivers, or people believed to be lawgivers, hold an honoured place in history and legend—Hammurabi among the Babylonians, Lycurgus in Sparta, Alfred in England; their work is to take a tangled mass of customs and arrange it so that it can be understood.

Justice is most likely to flourish when the people who have to obey the laws can say what they think of them. For laws are just when they create the conditions for happiness; and no one knows whether I am happy better than I do. Schoolmasters often believe that the people in their charge, being young, do not know what will make them happy; so they speak of maintaining discipline rather than justice. Some Governments argue that their subjects are like children in their lack of ability or training, and must therefore be disciplined. This may sometimes be true, though if it is training that is lacking, good Governments will work to supply it, since a man is happier when he can judge for himself. The Government's discipline will not be just unless the rulers possess the rare virtue of knowing what their subjects like, as well as what they themselves like. A schoolmaster may be excused because of the youth of his charges; but when Governments and politicians start talking of discipline rather than justice, they are half-way to tyranny.

THE USE OF FORCE

A further problem arises from the use of force in the State. Any Government's Sovereignty will be a dead letter unless it can secure obedience, and to this end many means have been adopted, which become apparent when the law is disobeyed. If A tries to steal from B, the policeman, if there is one near, will restrain A; if A resists, the policeman will use force, and the law requires that bystanders shall help him. If A assembles his friends and puts up an organised resistance, the Armed Forces will help the police. The police, then,

deal with lesser difficulties; if authority is seriously challenged, there are two widely different means for upholding it. One is the goodwill of the people, the other a trained and equipped force, whose members are required to obey the Government, whatever they, as individuals, may think about it. The more just a Government is, the more can it rely on the first of these methods. If the people think that A is pursuing a private quarrel, putting his own desires before the public safety, they will be willing to help the police. If they doubt whether the Government has done all it should to help A earn an honest living, they will hesitate before helping to arrest him for stealing. Then the Government will either have to improve its policy and win back popular support, or call out its Armed Forces. The danger of Armed Forces is that they may enable a Government to keep its power while neglecting its duty.

Force, then, is necessary, even to just Governments, so long as there are people whom H. G. Wells calls "recalcitrants"—people who will not respect the rights of others unless they are compelled to do so. The safest way of applying such force is for all citizens to recognise their duty to prevent disorder. It is only because this method will not always act quickly enough that Governments can claim the right to have a trained force; how can it be ensured that this will not turn Government into tyranny?

First, it must be established that the members of the force should obey the lawful Government. This does not mean, for example, that they should always obey the members of the present Cabinet or Parliament; they should obey whoever happens to be the Government at the time. More accurately, they should be subject, not so much to the Government as to the State. The State is the permanent organisation of law and order; the Government is the particular people to whom, for a time, the task of carrying out the law has been entrusted. One of the marks of a free country is that people may criticise the Government without being treated as enemies of the State, on a level with criminals.

Loyalty of the Armed Forces to the State is not always easy to obtain. If most of the officers come from the richer classes in the community, they may use their power against a Government which does not protect the interests of the rich. If the Armed Forces are treated with too much reverence, amounting to worship, they may decide to take over the task of Government themselves. A very common device for securing loyalty to the State is to have some symbol for it, to which the Armed Forces are required to take the most solemn oaths. The Crown in Britain is an obvious example. The Roman Emperor, when he was worshipped as a God, became

such a symbol, though never an acceptable one to Jews and Christians, to whom the idea of more than one God was repugnant. The Soviet Union adopts the plan of making the study of the Communist philosophy—on which the Soviet State is based—an integral part of the training of its Armed Forces. Again, it can be argued that if all citizens have some military training, it will not be so easy for a bad Government to use Armed Forces against its people. The problem has been made more difficult by the improvements in military science, since a great amount of force can now be concentrated in a few hands.

But while the State, subject to safeguards, may have a trained force, it is a rule of good Government that nobody else should be so equipped. The Wars of the Roses are a striking example from history of the evils of private armies. In 1934, Austria was plunged into civil war, partly by the failure of its Government to prevent political parties from recruiting armies.

Objection may be made, on two grounds, to the use of force at all. First, is not the purpose of community life to secure peace, instead of the principle than *Might is Right*? If the State depends on force, how is it better than uncivilised life? It can be answered that the State uses force in accordance with law—that is, the opinion of its people as to what is best; the uncivilised man and the criminal use it for their private convenience. In the same way, military action by an effective International Organisation reflecting the judgment of mankind would differ from war waged by a single State to gain its own ends. This answer is sound only in so far as the law, or the decisions of the organisation, are just.¹

Secondly, does not force brutalise those who use it, so that they become incapable of justice? The behaviour of the victorious nations in 1918-19, at Versailles, and the conduct of dictators recently, give much weight to this objection. The conclusion of this line of argument is the political doctrine known as Anarchism, the belief that all forms of compulsion do more harm than good. The Anarchist does not desire "anarchy" as the word is generally used, meaning disorder and lack of all organisation; he believes that organisation should result entirely from free consent, and that authorities which try to use compulsion should be destroyed. Anarchism has been most popular where Governments have been laziest and most inclined to rely on compulsion rather than on the goodwill which results from wise policy. Granted that compulsion is evil and that the organisation of force to impose it involves dangers to liberty, yet the majority of mankind take the view that the dangers of disorder are greater. The argument returns to the

¹ See Ch. XVI.

first of political questions, what would the life of men be like without Government?

L A W S A N D F A C T S

This examination of fundamental ideas has been necessary; the solution of the practical problems of Government depends on a proper understanding of the first principles of politics. But man did not, at first, weigh the *pros* and *cons* of this and that form of Government, and adopt one as the result of a reasoned conclusion. The problem of getting his living led him to certain political forms; only later did he begin to criticise these forms, to make a science of politics, and to try deliberately to improve his Government. His success in this improvement has depended on his economic progress and on the development of the power to think clearly. If practical problems are solved with the help of principles, principles must be examined in the light of facts. It has already been noticed that the idea of justice is changed by the conditions of society; this examination must now be carried further.

Except in a few favoured climates, the task of getting food, shelter and clothing has always taken much of man's attention, and so, for the most part, determined his form of Government. When he lived by tilling the fields he worshipped the natural forces—rain, sun and rivers—and power went to those who could create the belief that they had special influence with these nature gods. When shortage of food led to fighting among families and tribes, physical strength became another source of power. The ruling class thus created strengthened itself by acquiring the ownership of land. With the wealth that ownership brought they were able to maintain trained forces to uphold their power. The process varied a great deal from one part of the world to another, but it is, in general, true that the origin of States is the seizure of power by a group. The group keeps power as long as it can govern efficiently enough to prevent or suppress revolt. Later, criticism and peaceable reform may take the place of revolt, but the element of coercion remains. So, in nearly all societies to-day, there is a privileged group which, whatever the form of the State, exercises power out of proportion to its numbers.

Examples will make the point clear. If a foreigner who knows nothing of British Government, is told that everyone over twenty-one, with a few exceptions, can help to elect the Sovereign Parliament, he is correctly informed; but he does not obtain a complete picture, unless it is added that, for fighting elections, the power to spend money is a great advantage, and that some people have much more money than others. The statement that all British

subjects are equal in the eyes of the law, must be qualified by the admission that accused persons find it wise to employ a good lawyer, and that lawyers cost money. The extent of the freedom of the Press can be discovered by examining the laws; but to the legal statement must be added a description of the great newspaper monopolies. The law in Britain, unlike the law in South Africa, does not prevent anyone from doing what work he likes; but it is important to know what opportunities there are of getting the special education needed for many kinds of work. The law reveals where power resides in name; the economic system may show that in fact it resides elsewhere.

This principle is useful for the comparison of different kinds of State. Though there is great general similarity in the economic development of several European States, there are wide differences of detail, and these leave their mark on politics. So it is not useful to hunt for an ideal form of Government, suitable to all times and places. Because States are at different stages of development, improvement can only be effected by examination of the circumstances of each State, not by the arbitrary introduction of forms of Government which have been developed in altogether different conditions. A man may, without inconsistency, believe that it is desirable to keep monarchy in Britain, without wanting to see kings restored in France or established in the U.S.A. A common error in political argument is to say, for example, "Britain is a monarchy; France is a republic; Britain is better (or worse) off than France; therefore monarchical Government is better (or worse) than republican." This argument neglects the obvious truth that the prosperity of a country may be affected by the natural resources of its territory, by the politics of its neighbours, by the conduct of past rulers, and many other factors over which the existing Government has but little control. It should also be remembered that the goodness of a Government depends on its fitness to solve the particular problems which its country presents. Likewise it is an error to reject a proposed reform because it would not solve all problems. There is not a choice between any proposed reforms, on the one hand, and perfection on the other; men must choose between a limited number of proposals, and compare them both with one another and with the probable results of making no changes. These limits to choice are set by the economic, historical and geographical circumstances of the time and place.

But while it would be fruitless to search for ideal and universal forms of Government, it would be equally wrong to suppose that there are no universal standards by which Government can be judged. What has already been said about justice provides such

a standard. If the members of the Government set their personal advantage against and above that of the people; if they show undeserved favour to particular groups; if they refuse to permit the people to express their desires, they offend against the principles of good government.

THE NEED FOR CHANGE

A further principle of good government can be deduced from the connection of politics with economics and with the sciences that give man control over nature. This is the necessity for change. Just as there is no ideal government for all places, so there is no ideal for all times. In 18th century Britain much local administration was carried out by obliging the members of a Parish to take the jobs of Constable, Overseer, or Surveyor of Highways, in turn. The work was not well done, but there was no complete breakdown through inefficiency. Then the genius of inventors and the energy of capitalists wrought an industrial revolution; great towns sprang up in a few years with no adequate arrangements for their safety or health. Inefficient local Government changed from a nuisance to a deadly peril, and one aspect of the history of the 19th century is an effort of Government to keep pace with scientific and economic changes. A board of Public Health would have been useful in the 17th century—it might have prevented the Great Plague; by the middle of the 19th century it was not merely useful but essential. When Government does not change rapidly enough, society is strained and tormented with "problems"; the slum problem of to-day is the penalty for not creating a public department to deal with housing as soon as it was needed. If the neglect is long continued, the society perishes, and, after a time of disorder, something new may take its place, as happened in France at the end of the 18th century, and in Russia in the 20th. War has for long been thought evil, but the invention of rockets and hydrogen bombs turns what was a bad habit into a mortal disease; the problem of arranging the world's politics so as to prevent war becomes infinitely more pressing.

A Government cannot therefore be approved solely on the ground that it keeps order; it must also be asked whether there are any arrangements to permit change. For change will come; if it comes unpermitted it causes the violent overthrow of Government. The confusion that follows may be long, expensive and ruinous to happiness; and it may end simply in the passing of power to the most unscrupulous. Change can come peaceably if criticism of the Government is allowed, and if there are opportunities, for all who are sufficiently talented, to take part in the

Government. The Roman Empire in the first century B.C. nearly destroyed itself by trying to limit the governing class to a group of wealthy families. The English people pride themselves on their capacity for peaceful change, conveniently forgetting the more disturbed periods in their history. There is, however, a good deal of force in their claim, and this is due to the fact that their governing class showed more willingness to admit new men to its ranks than did the old aristocrats of France and Russia.

STATES, NATIONS AND RACES

But it is not only the economic structure of a society which helps to explain its politics. There are different races of men, each with its special characteristics; there are different languages and beliefs. Further, the States of to-day were formed at different times, and their politics bear the marks of their date of origin. The chief importance of these facts is that they affect the relations between Government and people. The special loyalty which a man feels to his own district or race or faith may conflict with his loyalty to the State; the form of Government must allow for this if the goodwill of the citizens is to be kept.

Of the forty-eight States of the American Union, thirteen are older than the U.S.A. itself; of the rest, some have been created by the migration of Europeans of many races to the open spaces of the West, some have been added by purchase. Each has a history of its own, and many have long traditions. The U.S.A. is a Federation; that is to say, the Government of the whole, or Federal Government, is not a sovereign ruler over the various parts; its rights, and the rights of each State, are exactly defined, and cannot be altered by the Federal Government alone, but only by the people as a whole, acting in a way laid down by the American Constitution. Contrast this with the Government of the United Kingdom, which is Unitary. Wide powers are given to towns and counties; special provision is made, in certain respects, for Scotland, Wales and Northern Ireland; but the Parliament of the whole has the power to alter these arrangements at will. Switzerland is made up of cantons, some of which are older than the Federation; and its people differ in language and religion and race. These differences are also found in Yugoslavia, and a federal form of government has now been adopted to redress the grievances of the minorities.

Federation is a way of getting the advantages of living together even when there are great obstacles to unity. Peoples of different race and language may also be joined in an Empire. This commonly happens when one group is richer or more powerful than

the rest; trade between Europeans and the less well-armed Africans and Asians has led to the building of several Empires. At the head of an Empire is a Sovereign State, which makes and controls the Government of the subject States. The nations associated with Britain but enjoying full self-government are, however, known, not as an Empire but as a Commonwealth. The United Kingdom is, therefore, a Unitary State, the head of an Empire and the oldest member of a Commonwealth. This Commonwealth is like, but not the same as, a Federation; it is an illustration of the truth that political forms cannot be classified once and for all, because they change, and because new forms appear; politics deals not with dead things but with living men and changing habits. The everyday use of words, therefore, is not always an accurate guide to the facts.

Particular attention should be given to the words State, Nation and Race. The word State is generally used to describe a political group in which there is a Sovereign free from outside control; State, in fact, means Sovereign State. Exceptions to this definition are the subordinate States of an Empire, and the members of a Federation. Nation, in official use—as in the phrase United Nations, or on a passport—has the same meaning as State; but in common speech it also means a group, perhaps larger or smaller than the State, bound together by common descent, language, faith or history. There are Scottish and Welsh nations, as well as English, in Great Britain; there are many separate nations in the Soviet Union.

A Race is a group of people of common descent, and since there has been so much mixture of races, it is a word very liable to misuse. There are obvious racial differences between an Englishman, an African and a Chinese; but when Englishmen speak of "the political instincts of the Anglo-Saxon race," forgetting the Danish, French, Celtic and other influences at work in Britain, or when Hitler spoke of the "Nordic race," then the boundary between fact and imagination is being crossed. Attempts are sometimes made to build national policies on the basis of race-doctrine. The pre-1914 struggle for the Balkans, between the German and Austrian Empires on the one hand, and the Russian on the other, was represented as a conflict between German and Slav; the persecution of Jews was defended on the ground that race-purity must be preserved. The facts of racial history, however, are too obscure to form a satisfactory basis for policy; and so far as they are ascertained, they do not support the belief that there are "pure" races. Racial arguments are as a rule the pretexts by which a particular section or class tries to justify action taken in its own

interest. "The art of politics," writes Dr. Conzé, "consists in hiding one's purposes and motives; the science of politics and society consists in laying them bare."¹

DISTRIBUTION OF POWER IN THE STATE

Confusion over words appears also in the attempt to classify States according to the distribution of power in them. The Greek writer Aristotle, in the fourth century B.C., noticed these types :— (i) Those where power is held by one man—monarchy. (ii) Where power is held by a few—aristocracy. (iii) Where power is held by the mass of the people—democracy. These forms could also be called tyranny, oligarchy and ochlocracy (mob-rule) respectively, in order to express disapproval. Most of these words are still used, but they do not serve a modern student of politics as well as they served Aristotle; they describe appearances rather than realities. The presence of a Queen suggests that the United Kingdom is a monarchy; the sight of 35 million people entitled to vote suggests democracy; the power of Press magnates to influence opinion, and of great industrialists to influence policy, supports the view that oligarchy, or plutocracy (rule of the wealthy) is the most suitable name.

The distribution of power is also affected by the growth of population which has occurred since Aristotle's time. In a Greek democracy all the adult men, except slaves, met to decide policy; there was no election of Members of Parliament, since every citizen was a Member. Mere numbers make this impossible to-day, so that the power to govern—i.e., to make and carry out laws—must be entrusted to a few. There remains, however, the power to choose, criticise, and change—in a word, to control the Government; it is the position of this power which determines how modern States should be classified. When the power of control belongs to the whole people, the State is a democracy; where they have not this power, the State is a dictatorship. Most modern dictatorships entrust the power of control to a highly organized party, in which one man holds a leading position; but how far this Leader has supreme power, and how far he must consider the views of other members of the party oligarchy, none but those members themselves can say with certainty.

Finally, when one attempts to classify States, two precautions must be taken. The first is that one should not be misled by empty forms. Election, and the existence of parties opposing the Government, are not evidence of democracy, if the Government is deter-

¹ E. Conzé. *The Scientific Method of Thinking*. For a detailed examination of races in Europe, see Huxley & Haddon, *We Europeans*.

mined to hold its power and will use force if the election results are unfavourable; some South American States have the forms of democracy but the reality of dictatorship. Secondly, there are States whose Governments are a mixture of dictatorship and democracy. There is a vital difference between democracy and dictatorship; but between the States in each class there will be lesser differences, and degrees of freedom. It is more important to know how the Government of a State works in practice, than to decide what label to place upon it. After an examination of the working of the Government of Britain, and of Britain's position in the world, it will be possible to return, better equipped, to the fundamental questions raised in this chapter.

BOOKS :

- *LASKI. *A Grammar of Politics.*
- *MABBOTT. *The State and the Citizen.*
- ARISTOTLE. *Politics.*
- ROUSSEAU. *Social Contract.*
- HOBBES. *Leviathan.*

CHAPTER II

THE BRITISH CONSTITUTION

What is a Constitution ?
Sovereignty of Parliament
Rule of Law
Administrative Law
An Unwritten Constitution
What is Unconstitutional ?
The Defence of Liberty
Old and New in the Constitution

WHAT IS A CONSTITUTION ?

In every State the powers of governing and controlling the Government must be given to some definite set of persons, and it must be clear how those powers are to be used. So in every State there are rules to settle these questions, giving powers to King, or President, Parliament or People. These rules are the Constitution of the State.

Constitution must be distinguished from law. In Britain there is a law which requires public houses to be closed at certain hours; another law compels Parliament to be dissolved not more than five years after its election. The former of these laws is simply a rule made for what is thought to be the convenient arrangement of everyday affairs; it takes for granted that there will be policemen to watch public houses, magistrates and judges to deal with offenders—in fact, the whole machinery of Government. The latter law, however, is concerned with this machinery itself, and is known as a constitutional law. Constitutional law, therefore, makes the machinery of Government; ordinary laws use it for whatever purposes are thought fit. This distinction is found not only in the laws of States, but in the rules of any society. A debating society will probably have a rule forbidding any member to insult another in the course of debate; this will be an ordinary rule, and members will expect the Chairman to see that it is obeyed. Another rule will state how often, and by whom, the Chairman shall be elected, and this will be a constitutional rule.

Constitutions are not always made up entirely of laws. It is part of the British Constitution that a Government of which the House of Commons strongly disapproves, shall resign; this, however, is only custom, not law. The British Constitution, then, is the set of laws and customs which determine how the Government of Britain shall be chosen and changed, what persons shall

carry out the various duties of Government, and what their powers shall be.

SOVEREIGNTY OF PARLIAMENT

The first fact about the British Constitution is that Parliament is sovereign. The traveller returning from abroad must allow Customs officials to search his luggage, because an Act of Parliament gives them power to do so. The judge who sends a burglar to prison must bear in mind the Act of Parliament fixing the maximum sentence for that crime; if the judge were to take bribes, he could only be removed from his office in the way laid down by another Act. Some of the law which judges administer is, indeed, older than Parliament; but this "common law" exists only as long as Parliament pleases, and is constantly being changed by Acts of Parliament, or, to give them their other name, Statutes.

But when it is said that Parliament is sovereign it is necessary to understand what the word "Parliament" means. People often say "Parliament" when they mean the House of Commons, or perhaps the Lords and Commons. Legally, however, Parliament means the Queen, Lords and Commons acting together, and to be exact, the Sovereign is "the Queen in Parliament." For this reason Acts of Parliament begin with the phrase "Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, as follows . . ." The Sovereignty of Parliament, in this full sense, is so complete that it controls even the separate parts of Parliament. Queen Elizabeth II is Queen because the Act of Settlement, 1701, conferred the throne on her family, and the Act of Abdication, 1936, set Edward VIII and his descendants, if any, aside from the succession. The Queen sometimes makes proclamations, as that concerning the Coronation; but no Proclamation which contradicted an Act of Parliament would have any force. The House of Lords has the power, in certain circumstances, to prevent a measure which the Commons have approved, from becoming law until a certain time has gone by; but it has this power, and no more, because such are the provisions of Acts of Parliament.

One apparent exception to the Sovereignty of Parliament serves only to prove it more emphatically. Once a year, usually in April, the Chancellor of the Exchequer "introduces his Budget"—that is, states to the House of Commons what taxes are to be collected in the next year. On the same day the Commons pass a resolution approving the taxes; later they will debate them and finally a

Finance Act will be passed; but the Chancellor's plans have the force of law as soon as the Commons' resolution is carried. But this happens only because an Act of Parliament, the Provisional Collection of Taxes Act, 1913, states that on this one occasion a Commons resolution shall have the force of law. Thus is avoided the confusion in business which would occur if everyone knew on Budget Day what new taxes were coming, but had to wait several weeks till the Finance Act was passed and the new taxes became law.

The force of law can also be given, by Acts of Parliament, to Orders made by the Privy Council or by Ministers, or to by-laws passed by local authorities. If this were not done, Government would be impossible; no Act of Parliament could, for example, contain a list of all the places in Britain where cars may be parked. This habit of "delegating" authority—that is, handing it over, on conditions, to somebody other than Parliament—has steadily grown as the number of matters with which Government must deal, has increased. The advantage of the practice is that it makes quick decisions possible; the danger is that Parliament may give away so much of its power that it would be unable to reassert itself if it wished. The position can be understood from the Emergency Powers Act passed in 1920 when the Government feared widespread strikes. This Act gives the Privy Council power to proclaim a State of Emergency if it has reason to fear that any large section of the people may be deprived of the necessities of life. While the State of Emergency lasts the Government may issue orders restricting the people's rights to hold meetings, and commandeering property. But such orders must be approved by Parliament shortly after they are made, and if the State of Emergency is to continue for more than a month a fresh Proclamation and renewed Parliamentary approval will be necessary. This Act was used in 1926 and the summer holidays of M.P.s were interrupted by the necessity for monthly meetings. It may well be argued that if the Government cannot use powers of this kind, a resolute group of people could overthrow it and set up a tyranny. On the other hand, the Government itself, in the first few days, or indeed at any time during a State of Emergency, might use its powers to such effect, arresting its opponents and seizing property, that it could ignore Parliament and rule in defiance of the law. The authority of Parliament can, like any other authority, be overthrown illegally, by force; the phrase "Parliament is Sovereign" means simply that it cannot be overthrown by any legal means.

But if Parliament is Sovereign, what is the position of the

people? Has not the House of Commons to be elected, at least once every five years? It has; but only because the Parliament Act requires it. If the present Parliament chose to alter the Act and prolong its own life indefinitely, there would be no illegality. During both Great Wars a Parliament did in fact prolong its life, as also did a Parliament in 1716.¹ This means that any Parliament could legally turn itself into a dictatorship. Yet, if it did, it would certainly be true that the British Constitution had been changed out of recognition: clearly, the Constitution is not only a matter of law, and to this point it will be necessary to return when the meaning of the word "unconstitutional" is considered. For the present it may be noticed that the Sovereignty of Parliament is limited by the fact that everyone expects Parliament to be periodically dissolved and re-elected, so that the last word shall rest with the people.

RULE OF LAW

Closely connected with the Sovereignty of Parliament is the second great principle of the Constitution, the Rule of Law. In 1923 the Home Secretary arrested a number of persons and deported them to the Irish Free State. This deportation was contrary to law, and one of the victims took legal action against the Home Secretary. It appeared that he, and everyone who had helped to carry out his orders, were liable to heavy penalties, from which they were only saved by the passing of a special Indemnity Act. This event illustrates several important ideas. First, that what is supreme in Britain is the law; the Home Secretary and the whole Government have power only to carry out the law, not to do whatever they think fit. The Latin tag *Salus populi suprema lex*—the welfare of the people is the supreme law—cannot be used by a British Government as an excuse for pursuing its own idea of the public interest without regard for legality. Second, that everyone is subject to the law; the engine driver and the ship's crew who helped to move the deportees could not plead that they were under orders; their business, like that of everyone else, was to obey the law, not to help the Home Secretary to break it. Third, that since Parliament can alter the law, the Rule of Law reinforces the Sovereignty of Parliament. The Indemnity Act showed this plainly; here an illegal act had been committed and many people were liable to be prosecuted; the law could remove the confusion by declaring that none of them were to be prosecuted. But, to get

¹ The 1716 Septennial Act not only prolonged the life of the Parliament then sitting, but made seven years, instead of three, the maximum legal life of future parliaments. This remained the law until 1911.

such a law passed, the Government had to go to Parliament. This gave the Opposition the chance to demand the full facts, to criticise the Government publicly, and to secure that the Government, besides protecting itself, should at the same time set up a special tribunal to decide what damages should be paid to the deportees for the inconvenience and loss of reputation they had suffered. The Rule of Law makes the Government subject to Parliament, and, through Parliament, to the people.

The meaning of the Rule of Law can be understood by considering what Government can be like without it. In France before the Revolution the nobility could disregard the ordinary law, and could punish and imprison their inferiors without putting them through any form of trial. In Britain to-day the law gives no such special privileges; everyone is subject to the same law. This is the meaning of the phrase "equality before the law." In Hitler's Germany the Government had power to imprison people without trial, or even people who had been tried and acquitted. Hitler's expressed wishes were, in fact, the law. Nearer home, the Home Minister of the Government of Northern Ireland has the power to detain suspected persons indefinitely without bringing them to trial. Where the Rule of Law prevails, no one can suffer any penalty or loss of liberty unless he has been tried and sentenced by a court; a man may, of course, be kept in prison while awaiting trial, but the period for which he is kept will be short, and defined by law.

ADMINISTRATIVE LAW

It is possible to make exceptions to the Rule of Law without setting up a tyranny like those described above. In France there exists what is called *droit administratif*—administrative law, or, more exactly, special law for officials. When a servant of the Government, in the course of his work, inflicts a wrong on any one, he cannot, like Mr. Bridgeman in 1923, be brought before the ordinary courts, but must be brought before a special type of court, which will determine whether he acted in good faith and obedience to orders. A public servant who has so acted is thus protected without the need for a special Indemnity Act; on the other hand, officials, feeling secure, may be tempted to stretch their powers. *Droit administratif*, however, does not mean that officials can do as they please; indeed, where it prevails, a special study will have been made of the offences which officials are likely to commit and precautions will have to be taken against them. Where the Government owns no law but its own wishes, there is tyranny; where it is subject to special laws, *droit*

administratif; where it obeys the ordinary law of the land, the Rule of Law.

Are there any signs of administrative law in Britain?—or, to put the question more precisely, are there any persons, other than the ordinary courts, presided over by judges and magistrates, who can exercise judicial powers, deciding whether or not the law has been broken, and inflicting penalties? At first sight, Courts-Martial, which try members of the Armed Forces for certain offences, appear to fit the question. The Armed Forces, however, are not free from the ordinary law; the man who enlists puts himself under military law as well as the ordinary law, so the Rule of Law is not seriously challenged. Other examples are more significant. In 1927 a Trade Unionist objected to the support given by the Trade Union Congress to the *Daily Herald*, and asked the Registrar of Friendly Societies whether this was not an illegal use of their funds. The Registrar decided it was not, and the Trade Unionist took the matter to court. The judge ruled that since the Registrar had decided the matter, his court had nothing to say; the Registrar thus appears to have the power of deciding, in some matters, what is legal and what is not. Under the Electricity Supply Act, 1926, the Electricity Commissioners had the power to close down certain generating stations if they were satisfied that the Central Electricity Board could supply more cheaply; whether the Board could in fact do this was to be decided by an arbitrator appointed by the Minister of Transport, who was thus given a judicial function. Any Act which gives the Government power to take over, or control the use of property, will create problems of compensation which must be settled by some kind of court. The ordinary courts would have been overwhelmed by pressure of business if special bodies had not been set up. Acts of this type have become more frequent since 1918; those creating the London Passenger Transport Board, and the various Marketing Boards, are obvious examples. Similarly, there are Acts, such as those about Pensions and National Insurance, conferring rights on persons with certain qualifications; special authorities are set up to decide, in disputed cases, whether a person has these qualifications.

So while there has been no attempt to create a system of administrative law in this country, examples of it spring up here and there as need arises. To a large extent this cannot be avoided, because of the growth of Government activity. Danger appears, however, when the question "Is the Government keeping the law?" is decided by persons appointed by the Government. This danger may be avoided to-day by requiring that any arbitrators needed

for special purposes shall hold their positions permanently, whether their decisions enjoy the approval of the Government or not; and it will probably be wise to see that at least one arbitrator is a person with legal experience. But just because this administrative law has been added to the Constitution bit by bit, the principles which it involves have never been considered. This is in accordance with the English political habit of mind, which prefers treating particular problems to examining principles, and does not meet its troubles half-way.

It is worth while emphasising that all the bodies which exercise this administrative law get their powers from Acts of Parliament; whatever assaults have been made on the Rule of Law, the Sovereignty of Parliament remains.

AN UNWRITTEN CONSTITUTION

Such is the foundation of the British Constitution. Why is it often called an "unwritten" Constitution? Some of the most important parts of it—the Act of Settlement and the Parliament Acts—are written. A foreigner could get quite a fair idea of how law is made, and what the powers of the Government are, by consulting the Statute Book. But his idea would not be complete; he would not learn from the law that the Government must resign when a Vote of Censure has been passed upon it by the House of Commons. He would, however, find that the most recent Finance Act gave the Government power to collect Income Tax for the coming year only. The Army and Air Force Act likewise, is kept alive by an annual Parliamentary process. So a Government which ignored a Vote of Censure would before very long be deprived of the means of governing legally; it would have to resign or defy the law. The "unwritten" parts of the Constitution are for the most part obvious deductions from that which is written.

The real fact which the phrase "unwritten Constitution" tries to express is that there has never been any attempt to write the British Constitution, as a Constitution, separate from the rest of the law. In the Middle Ages it could have been said with truth that the Constitution was unwritten; but a series of conflicts between King and Parliament, Government and People, have ended in the writing down of final decisions on the points in dispute. So the British Constitution has been made, like the British administrative law, bit by bit as need arose. This has an important result. The laws about the Constitution, having been made just as other laws, can be altered in the same way. A Bill determining hours and conditions for factory workers and a Bill regulating Parliamentary elections must go through exactly the same processes in

order to become law. Contrast with this the U.S. Constitution, the best known example of a "written" Constitution—*i.e.* one which is separate from the rest of the law. Congress—the nearest U.S. equivalent to the British Parliament—can make laws, but if these conflict with any article in the Constitution, the Supreme Court can declare them "unconstitutional." The Constitution itself can only be altered by an elaborate procedure requiring the consent of 36 out of the 48 States. The advantage of such a plan is that sweeping changes in the Government cannot be made simply because one party gained a victory at the last election, perhaps on some quite different issue. It is a particularly suitable plan for a country formed as a Federation of separate States; for the States might never join the Federation unless they had a guarantee that their rights could not be taken away by a mere majority vote. The British North America Act, for example, forms a Constitution for the Dominion of Canada, and was intended to protect the French-speaking minority. The drawback to a fixed Constitution is that it may prevent the law changing as quickly as desirable. When, in accordance with President Roosevelt's policy, Congress made laws affecting conditions of labour, the Supreme Court declared them unconstitutional; so a minority of the people, by preventing amendment of the Constitution, could block the reforms. The 18th century Constitution makers did not foresee 20th century industrial problems. The British Constitution is called a "flexible" Constitution, as contrasted with "rigid" Constitutions, like that of the U.S.A.

WHAT IS UNCONSTITUTIONAL?

What meaning, then, has "unconstitutional" in Britain? There is nothing equivalent to the U.S. Supreme Court. No British court can declare a law unconstitutional; if a law had not been made in the way laid down by the Constitution, it would not be a law at all. It seems to follow that everything which is unconstitutional must also be illegal. If the Prime Minister told a judge to resign, this would be called unconstitutional, and rightly, because it would be illegal, being contrary to the Act of Settlement. It used to be unconstitutional for the President of the Board of Trade to sit in the House of Commons; an alteration of the law has now made it constitutional. But it does not seem satisfactory to say that the only unconstitutional actions are those which defy the laws about the Constitution; for the word is used in everyday speech in a much wider sense. An examination of its use will help to explain the matter.

If the Queen expressed in public a disagreement with her ministers, and with the majority in Parliament, this would be called unconstitutional. Such an action by the Queen would be an attempt to get support and power for herself against Parliament. But no one can govern legally without Parliament; so the Queen's act would be a first step to illegality. It is reasonable to call unconstitutional any actions which naturally lead to a breaking of the constitutional laws, as well as actions which break those laws straightaway.

A Parliament which in due legal form altered the Parliament Act and prolonged its own life would be said to act unconstitutionally, unless, as during both world wars, it was the obvious wish of the people that this should be done. Here is to be found the one really important unwritten part of the Constitution—the assumption that the purpose of the Constitution is to give effect to the will of the people. So any action, however legal, may be called unconstitutional if its purpose and effect are to take power out of the hands of the people: democracy is the unwritten basis of the Constitution.

This statement is open to challenge. Britain has not been a democracy long—certainly not before the 19th century. How can so recent an idea be the basis of a Constitution which is centuries old? And if democracy is to be a fundamental principle, why not private enterprise as well? At present most of the land and industry of the country is owned by private persons; this fact is quite as solid and important as the fact that everyone has a vote. Does it not follow that any actions, however legal, which aim at transferring land and industry to public ownership, are unconstitutional? When an association of anti-Socialists calls itself a "Constitutional Club," this is presumably what it means. But is there any end to this process? By a like logic, laws giving greater freedom to Sunday entertainment, or providing easier divorce, could be called unconstitutional by those who dislike them.

The following conclusion may be drawn :—If the word "unconstitutional" is intended to describe matters of fact, it should only be applied to actions which defy, or will lead to defiance of, the constitutional laws. So, in this sense, no law or proposal to make a law can be unconstitutional. The word is also used of matters of opinion, and anyone may fairly call even a law or proposal unconstitutional if he is convinced that it would be contrary to the proper purpose of British Government. There is this justification for calling laws which attack democracy unconstitutional—that clearly the proper purpose of all law and government is to express the will of the governed. This or that policy about industry

or Sunday entertainment can be submitted to the test "Does it give us what we want?"; but the idea of governing by the people does not need to be submitted to such a test; it is the test. Nor is it a test which has only been applied in recent times. Long before England could have been called a democracy, sections of the people who had a grievance would claim that the practices to which they objected were contrary to the liberties and desires of the people. Democracy, as it is understood to-day, is the modern form of this ancient appeal on behalf of the public welfare.

The Constitution gives powers to Parliament and Government, but always with the implied reminder, "This power is to be used to give effect to the will of the people." English law often falls back on this last appeal to commonsense and reasonableness. In a trial, the prisoner's guilt must be proved "beyond reasonable doubt"; it is illegal to say in public things so provocative that a "reasonable" man may fear they will cause a disturbance. To translate this idea of reasonableness into law such as courts can declare and citizens obey, is not easy, and the Constitution often appears a tangled maze; but the clue to it is the idea of reasonableness.

THE DEFENCE OF LIBERTY

Yet, since it is true that a Government with a majority in Parliament can legally do as it pleases, the legal defence against tyranny seems weak. Tyranny, however, cannot be set up by law alone; a Government with this ambition must control armies, police, law courts and the Press. The real defence for British liberty lies in the arrangements which make it difficult for a Government ever to become strong enough to twist the Constitution towards dictatorship without provoking revolt. Some students of the British Constitution have argued that it checks the Government by the device called SEPARATION OF POWERS. Three powers are necessary for organising a State :—Legislative power to make laws, Executive power to carry them out, Judicial power to apply the law to particular problems. One view is that if these powers are placed in separate hands no one body of people will be strong enough to be tyrannical, and each power, jealous for its own authority, will keep watch on the others. At first sight the British Constitution appears to use this plan: the Queen and her Ministers carry out the law; the Queen in Parliament makes it; the judges and magistrates exercise judicial power. Until the 17th century this would not have been a bad description of the Constitution, and the Separation of Powers did then help to preserve liberty. It was because Charles I could not by himself make laws to compel people to pay taxes that he had to ask Parliament, and Parliament, thus

brought to the front of the stage, was able to voice the general criticism of Charles' Government. This does not mean that Parliament won the Civil War by a legal device; it won by wealth and armies; but Parliament's authority as the law-making body made it a centre round which opposition to the King could rally. Separation of Powers, however, can do the work of weakening government too well. Charles II and his Ministers declared war on the Dutch—an executive action, within their constitutional rights; but only Parliament could make the laws to provide the necessary money; Parliament was not inclined to do so, and the Dutch fleet sailed up the Medway. Since then the legislative and executive powers have been fused in that section of the Queen's Ministers called the Cabinet. These Ministers are the real Executive; but they are also in Parliament and largely control Parliamentary business. None the less, they must be prepared to face questions and criticism in Parliament; any suggestion that they are trying to evade Parliament's authority by giving it too little time to discuss measures, will cause much indignation, even among M.P.'s who usually support the Government. The gap between Legislature and Executive has been bridged; but the bridge rests on good relations between the Government and the majority in Parliament. Separation of these two powers, therefore, is no longer a permanent principle of the Constitution; it is a possibility, kept in the background and available for use against a Government which fails to recognise the Sovereignty of Parliament.

When the Judicature is considered, the Separation of Powers is more obvious. One of the results of the 17th century struggle is that judges cannot be removed from office by the Government of the day, and so need not hesitate to declare action of the Government illegal, if necessary. When the police searched the premises of Mr. Wal Hannington, and removed documents about the National Unemployed Workers' Movement, of which Mr. Hannington was a leader, he was able to bring an action and secure judgment against them. This judgment could not have been pleasing to the Government, of which Mr. Hannington was an opponent. So separation of the Judicature from the Executive is certainly one safeguard against tyranny. At the head of the Judicature, however, is the Lord Chancellor, who also, as a member of the Cabinet, belongs to the Executive, and as a member of the House of Lords, to the Legislature. So the Separation of powers is not complete; but there is sufficient of it to have considerable effect on the character of the Constitution.

The U.S.A. again provides a contrast here. The President and his Ministers cannot be members of Congress. For this reason,

Walter Bagehot, in his book on the English Constitution, speaks of "Presidential Government" when he means complete separation of Legislature and Executive, and "Cabinet Government" when he means the fusion of the two on the English model. He remarks that since Cabinet Government offers to the successful politician both kinds of power, it will attract an abler type of man into politics than will Presidential Government. The reader must look at representative British and American politicians and form his own opinion. It should be remembered that in this country, as contrasted with the U.S.A., politics was regarded as a distinguished career before the opportunity of making great wealth in industry was as great as it is to-day. Industry and commerce do not therefore absorb so large a proportion of able people. The U.S. system works conveniently enough when the President and the majority in Congress are of the same Party; when they differ, the danger of paralysis of Government appears. The widespread belief that the U.S.A., after fostering the idea of the League of Nations in 1919, backed out of it, arises from a failure to realise that President Wilson, of the Democratic Party, had not all the powers of Government; he could not do all he wished when the majority in Congress was Republican.¹

Our other defence of liberty is what might be called the "negative principle." For the most part, the law does not say what citizens may do, but what they may not do. It may be assumed that whatever has not been declared illegal, either in cases already tried, or in Acts of Parliament, is legal. No law guarantees the liberty to write or print what one likes; but several laws say what may not be printed (*e.g.*, incitements to crime) and anything apart from these forbidden things may be published. There is some safety in the fact that any restrictions on liberty require Acts of Parliament, and can thus be exposed to public criticism.

OLD AND NEW IN THE CONSTITUTION

The following principles, therefore, summarise the British Constitution:—Sovereignty of Parliament; Rule of Law; flexibility; belief that Government and Parliament will use their powers reasonably to express the will of the people; partial Separation of Powers, and the rule that whatever has not been forbidden is legal. In the chapters that follow it will be useful to see how these ideas are realised in the day to day working of our Constitution. It must, however, be noticed that the English have fashioned their Constitution piecemeal, and the result is that many old names and

¹ Republicans and Democrats are the chief parties in the U.S.A.: the words have not the same meaning as in ordinary speech in this country.

customs still survive, sometimes without meaning, sometimes with new and quite different meanings attached to them. Patience is necessary to sort out appearances from realities. The Queen, for example, is called "Our Sovereign Lady"; it then appears that Parliament is Sovereign, and the Queen must do as her Ministers advise; then, that the Queen appoints her Ministers; yet also, British Government is Government by the people. Again, when an M.P. proposes that a Minister's salary should be reduced, or that a Bill be read this day six months, he really means something quite different. This love of old forms sometimes hampers business, and may well rouse the indignation of those who wish to see the Government working quickly and efficiently. On the other hand, it must be admitted that the English have been surprisingly successful in their politics. They freed themselves from the chains of feudalism earlier than many nations; they came through the great changes of the 19th century, not without agony, but without civil war; and their high standard of life is in some measure due to these facts. This success must in part be attributed to the habit of fitting the new and the old together. Neither the English nor anyone else can put new wine into old bottles; but the English are quite prepared to call the new bottle an old one, if that will make people more willing to use it.

BOOKS :

*BAGEHOT. *The English Constitution.*

*DICEY. *Law of the Constitution.*

*CLARKE. *Outlines of Central Government.*

PART ONE
CARRYING OUT THE LAW:
THE GOVERNMENT

CHAPTER III
THE MONARCHY

Political Activities :
Executive
Legislative
Judicial
Royal Prerogative
Honours
The Church
Personal Affairs
Imperial Functions
Conclusion

"Elizabeth the Second, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith." This is the official title, to which the Bidding Prayer adds, "over all persons, and in all causes, as well ecclesiastical as civil, within her dominions, supreme." From an examination of these words will arise a complete account of the monarchy.

Elizabeth II succeeds to a throne held before her by her father, uncle, grandfather, and a long line of ancestors, so that it is natural to say that the monarchy is hereditary. This would not be quite true; for although it has always been recognised that the Crown belongs to a certain family, there has been, from early times, a belief that the chief Assembly of the country—in turn, the Saxon Witan, the Great Council, and Parliament—have the right to decide which member of the family shall reign. In 1199 the right of King John as against Prince Arthur was defended on the ground that the barons had approved John, though they may have regretted it later. The Act of Settlement disposed of the matter by setting James II and his descendants aside, and fixing the succession on another branch of the family, where it has remained ever since, except as modified by the 1936 Abdication. So Elizabeth II reigns not only by the Grace of God, but by Act of Parliament. This is tactfully omitted from her title, but not forgotten in the Oath of

Allegiance taken by M.P.s: "I will be faithful to H.M. Elizabeth II, her heirs and successors as by law appointed."

To understand the monarchy one must ask what the Queen does; how she does it; and, arising from this, how far her actions reflect her personal wishes, and how far she must act as she is advised. In examining what she does attention will first be directed to those actions which are immediately connected with Government; and these can be classified according as they are connected with the Executive, the Legislature and the Judicature.

POLITICAL ACTIVITIES

1. *Executive.* The Queen is the head of the Executive, but since she cannot do everything herself she must have Ministers. These she must choose or approve; the practice to-day is for the Queen to choose the Prime Minister; the latter then prepares a list of Ministers and submits it to the Queen for approval. But, when choosing the Prime Minister, the Queen must remember that a Ministry which has not the support of a majority of the House of Commons will be unable to govern for lack of money. The usual effect of this is that the Queen chooses the leader of the party which has a majority. So, at the 1945 General Election, the elector was choosing whether Mr. Churchill or Mr. Attlee should be Prime Minister; and by providing Mr. Attlee with a majority, he created a situation in which King George VI could not, as the phrase is, "send for" anyone else. If it is not obvious who would be most likely to command support, the monarch must exercise some degree of personal judgment. In 1931, when Mr. MacDonald resigned as head of the Labour Government, King George V. might have sent for Mr. Baldwin as leader of the next largest party; in fact, he sent again for Mr. MacDonald and asked him to form a new Government containing members of all parties. This Government did not survive simply because the King had suggested it but because Parliament approved and because it won the ensuing election. In 1957, after Sir Anthony Eden's resignation, the Queen had to appoint someone from the Conservative majority, but it was not certain whether Mr. Macmillan or Mr. Butler was to be their leader. The Queen consulted Sir Winston Churchill and Lord Salisbury—senior Conservative statesmen, neither of whom was himself in a position to take the office—and sent for Mr. Macmillan.

The Prime Minister, thus chosen, must get the Queen's approval for the list of Ministers. Here again the Queen may exercise personal choice; she may say, "I do not want such and such a man among my Ministers." The Prime Minister can give way, or,

if he prefers, offer to resign; but if he is the only person who can get a majority, then the Queen must give way. Queen Victoria had a strong objection to Henry Labouchere, who frequently opposed grants of money for the Royal Family; and her objection kept him out of office. It would not have done, had the Prime Minister been as determined to get him in as the Queen was to keep him out.

Political parties to-day are highly organised, and most people know who are the leaders and chief figures in them. So, when any Party has won an election, it is clear who is going to be Prime Minister, and shrewd guesses can be made as to who will fill the other posts. In the 18th century, when Party organisation was not so developed, the King's own wishes were more likely to be fulfilled.

The Ministers have the task of carrying out the law, and framing new laws to submit to Parliament. Throughout this process, there will be many documents for the Queen to sign. If she wishes, she can become a "rubber stamp Queen," signing as she is asked; but this is not what the Constitution requires or expects. Time would not allow her to discuss every matter needing her signature, but she can always require her Ministers to discuss with her the topics of chief importance. This right she usually exercises. Lord Palmerston, when Foreign Secretary in the middle of the 19th century, lost his position because he tried to ignore Queen Victoria's right to be consulted. In these discussions on policy, the Queen may express her own opinion freely, on two conditions. The first is that it must not be made public. If it were generally known what the Queen's opinion were, she would be drawn into the conflict of parties. The party with which she agreed would make the most of the fact as a way of getting votes; while an election victory for the other side would be a defeat for the Queen. Prime Ministers can endure to be defeated, because they can go into opposition; for monarchs who are known to be in disagreement with the majority of their people, there is scarcely any place but exile. The second condition is that, in the last resort, the Minister's wishes would prevail. If the Queen were to persist in opposition, the whole Ministry might resign; then, if they had a majority they could prevent any other Ministry from governing, and so oblige the Queen to send for them again and accept their views. Such a chain of events is possible; but it is not likely. Ministers do not go to discussions with the Queen armed with the threat of resignation, ready to produce it at the first sign of opposition. So long as both Queen and Ministers understand the Constitution, the discussion can go on amicably. At the end of it there will emerge a policy with which the Minister will agree, though it may

not be exactly the same policy as he proposed at first. The Queen's views may have modified the Minister's opinion. The Queen may or may not agree with the final decision; but at least she has been able to discuss and criticise and perhaps affect policy. By these discussions the personal wishes of Elizabeth Windsor are turned into the constitutional will of the Queen.

The Queen can therefore be thought of as an expert adviser to her Ministers, comparable to a highly placed Civil Servant. A Minister may ask such a Civil Servant his opinion; the Civil Servant, like the Queen, will have a personal opinion but must not express it in public; and, like the Queen, he must finally accept the Minister's view. But while the Civil Servant may be, the Queen must be consulted; with both the Minister has the last word, but his attitude will not be the same with both. He is the Civil Servant's chief and can decide for himself what the length and form of the discussion will be; but, in name at least, he is the Queen's servant and is expected to express this idea in speech and manner when the Queen consults him.

The fact that discussions with the Queen are private make it hard to say how great her influence is. Much will depend—and here again there is a parallel with the Civil Service—on the character of the persons concerned. An incompetent Minister may be grateful to anyone who will tell him what to do; an able one will not need to have ideas put into his head but will know how to use advice. Though it is not certain how matters have stood in the most recent reigns, the publication of Queen Victoria's letters gives much information about the influence of the Crown in the past. She appears, expressing her strong disapproval of some lines of policy; her encouragement of others; suggesting who shall be appointed to an Archbishopric; indignant when the wisdom of her suggestions is politely questioned; delighted when she gets what she wants; and judging to a nicety when the time has come for her to give way. Her native shrewdness and industry, coupled with her long experience, made her influence great. She occasionally tried to make it greater than the Constitution allows; and it is certain that the influence of the Crown has not been so great in later reigns.

As Head of the State, the Queen has control over the Navy, Army and Air Force, and the importance of this fact has already been noticed. With this control goes the power to make peace and to declare war; but these actions, like the rest, go through the process of Ministerial discussion.

2. *Legislative.* The Queen is part of the Legislature, *i.e.*, Parliament. No Bill can become an Act without her Assent. But the Queen will give her Assent if her Ministers so advise; and no

Bill of which Ministers disapprove would have struggled through the Lords and Commons and so become ready for the Royal Assent. The Assent has thus become a pure formality, and has not been refused since the reign of Queen Anne. Even on that last occasion the Queen was not opposing her Ministers. The Ministers were using the Royal power to prevent Parliament doing something of which they disapproved. The party system of to-day links Ministers so closely with the majority in Parliament that no such situation can arise. This giving of Assent is the only purely legislative action of the Queen; all the others are, strictly speaking, Executive actions, but some of them are so closely concerned with the Legislature and the Judicature that it is convenient to deal with them under those headings.

The Queen can summon Parliament, prorogue it—*i.e.*, bring one Session's work to an end—and dissolve it. Since there can be no legal governing for long without Parliament, the Queen is obliged to summon it and re-assemble it after prorogations with regularity. For the same reason she cannot dissolve it without requiring the election of a new Parliament; Dissolution thus becomes an appeal to the people. The Queen normally uses this power as her Ministers advise her; consequently, a Ministry which feels it is losing the confidence of Parliament can dissolve it and discover at an election what the people think. This is most likely to happen in "three-cornered" Parliaments, where the Government has not a clear majority over all parties. The Government is also able to choose its own moment for an election—within the limit of the maximum legal life of Parliament—and this gives it a tactical advantage. Thus the Election of 1935 came shortly after a very successful speech at Geneva by the Foreign Secretary. It may be claimed that this advantage is only a fair compensation for the fact that the Government has, at elections, the task of defence, which is always harder than attack. If an election is legally bound to come within, say, the next twelve months, it is natural for the Government to pick what Mr. Baldwin once called a "less unfavourable" moment. But if the Government wanted a "snap" election, out of the normal time, because its chances were good, the Queen might possibly be justified in refusing to dissolve. Standing outside parties, she has the duty of seeing that the Constitution is not thus twisted to party advantage. The Government could of course get what it wanted by resigning, going into Opposition and hampering its successor; but this would not be a popular move and the tactical advantage would be lost. By objecting to a Dissolution the Queen, would in effect, be asking the Government "Why do you want to dissolve? Is it because you

think it necessary for the country, or to gain a party advantage?"

Can the monarch dissolve Parliament even if Ministers do not wish it? According to the general rule, that in all public actions the monarch must take Ministerial advice, the answer should be No. Circumstances might arise, however, in which the monarch could say to the Prime Minister, "You are proposing to start on a line of policy which is new and was not discussed at the last election. Ought you not to get the country's opinion first? You say I should take your advice because you represent the people. How do you know? It is three years since the present Parliament was elected, and your Government's candidates have been defeated at several by-elections lately. You had better fight an election and see if you have the people's support." Such circumstances can be imagined; but if they really arose, the Prime Minister himself would probably realise the necessity for an election. Further, a monarch who acted thus would run considerable risk; for if the Government won the election, it would be very like a victory over the monarch, whose advice would not carry so much weight in future.

One part of the Legislature, the House of Lords, is specially connected with the Queen, since she has the power to create Peers with the right to sit in that House. A Government with a majority in the Commons, but not in the Lords, can in the last resort, advise the Queen to make a sufficient number of its own supporters Peers to give it a majority in both Houses. Such a "swamping" of the House of Lords has never occurred, though on two occasions—in 1832 and 1910—it has been threatened, and the threat was enough to make the Lords give way. It is sometimes suggested that before agreeing to create Peers on this scale the Queen could insist on dissolving Parliament, to ascertain the country's wishes. Certainly, on both the occasions mentioned, Dissolutions did occur, but there is no reason to suppose that the Governments of the time were unwilling to have them. The great majority in the House of Lords is Conservative, so that it is only an anti-Conservative Government which will ever need to use the "swamping" weapon. If special difficulties are to be put in the way of its use, the constitutional scales are tilted in favour of the Conservative party.

There is an historical interest in the creation of Peers. What was once the personal right of the King to summon whom he pleased to the Great Council to give him advice and grant him money is now a tool with which the people, through the Government they have chosen, may prevail over the Peers.

This connection with Parliament is probably the sphere in which

the Queen's personal wishes may be most important. They will not be constantly at work, but will emerge at a crisis, when the question is raised, What is the real will of the people? It has already been suggested that the underlying purpose of the Constitution is to give this will effect; it now appears that a function of the Queen is to hold the Constitution to this purpose, and to recall Governments which stray from it. If the Queen is to perform this duty properly, it is extremely important that she should be in touch with all sections of opinion in the country.

3. *Judicature.* All justice in Britain is the Queen's justice; she is "over all persons and in all causes, within her dominions, supreme." The chief judges are appointed by her, on the advice of the Prime Minister; they can be removed from office by her if an address to that effect is presented to her by both Houses of Parliament. The Lord Chancellor, being a Cabinet Minister, must have his appointment confirmed by the Queen; and Justices of the Peace are appointed by the Lord Chancellor. All crimes are considered offences against the Queen; and a criminal trial is described as the case of *Regina v. So-and-So*. Now if someone writes a libellous statement about me, I can bring an action or not, as I please. Similarly the Queen can decide whether or not to proceed against a suspected criminal, or, if the trial has begun, can bring it to an end at any time by saying that she does not wish to go on with it. Such a decision will in fact usually be made by the Director of Public Prosecutions; or, in cases of political importance, the Attorney-General may decide. A political sensation was created in 1924 by the decision of the Labour Government not to proceed with the prosecution of a Communist. When a criminal has been convicted and sentenced, the Queen has the right to pardon him freely or on conditions, or to reduce the sentence. Petitions to the Queen to do this are sent to the Home Secretary, on whose advice the Queen acts. This "Prerogative of Mercy" is useful, because judges, juries and magistrates can make mistakes, and because the working of the law may prove too harsh in special cases.

ROYAL PREROGATIVE

This account of the Queen's political work shows the importance of her position. She influences each of the three powers of Government; actions of Government are carried out in her name. Thus the phrases "Our Sovereign Lady," "Head of the State," "Fountain of Justice and Honour" become understandable. But at every point she is surrounded by Ministers through whom she must act. To make her will effective, there must be some document—a

Patent to create a Peer; a Writ to order an election; a Commission to an Army Officer, a Proclamation to declare a State of Emergency. Every one of these documents must bear the signature of a Minister, or have attached to it the Great Seal which is in the keeping of the Lord Chancellor.¹ So for every Act a Minister is responsible. If an act is thought unwise those who think so can criticise the Minister; if it is illegal, the Minister can be prosecuted. It is no defence, for an illegal act, that it was done at somebody's orders, even the Queen's. Danby, one of Charles II's Ministers, got a written statement from Charles that certain illegal acts were being performed by Royal command, but it did not save him. The Queen herself is not criticised nor can she be prosecuted. Thus, in the old phrase, "the Queen can do no wrong"; but she cannot do anything in government without her Ministers—and they can do wrong and be brought to account for it. The phrase further means that whatever the Queen, as a person, does, she cannot be prosecuted. Shakespeare tells how Henry V, when Prince of Wales, committed an assault and was dealt with by the Lord Chief Justice. When he was King, he could have beaten the Lord Chief Justice to his heart's content and no court could have tried him. This is an odd situation: but since no one expects the monarch to take advantage of it, it is left alone. In the last resort the monarch can be removed by an Act of Abdication, to which he must give his Assent, as to all other Acts, if his Ministers advise.

The word "Prerogative" can be defined as the sum total of powers belonging to the Crown. In earlier times the Crown was supreme, except for the checks imposed by the customs of the feudal system. The gradual writing down and altering of these customs has given certain powers to Parliament and left the rest with the Crown; this remainder forms the "Prerogative." Even this is exercised through Ministers. The final conclusion must be that the Queen as a person has the right to discuss policy freely with her Ministers; it is the Queen as Queen—as an institution or part of the Government—who exercises the Royal Prerogative. The word "Crown" is often used to describe the Queen as an institution; it has the convenience that it will serve also for King, when there is a King as Sovereign. At the sight of the word Queen it is wise to stop and consider what is meant. When newspapers report that the Queen has visited a factory and commented on the working conditions, it is presumably her personal opinion; when they report the "Queen's Speech" at the beginning of a

¹ One Lord Chancellor, Lord Brougham, used to make pancakes in it: but this was not a Constitutional usage.

session of Parliament, the word refers to the Crown, and the policy expressed is the policy of Ministers.

HONOURS

By no means all the Queen's activities are political. There are two spheres of work which are on the border of political and non-political. Not only Peerages, but Knighthoods, Orders of Merit, Companionships of Honour, and many other Honours are conferred by the Queen. New Year's Day and the Queen's Birthday are the usual occasions. Some of these Honours have no political meaning—for example, the dignity of Dame conferred on Edith Evans. They are a recognition of eminence in any walk of life and mark a definite stage in the career of a lawyer or Civil Servant. All Honours Lists, however, contain a fair sprinkling of Knighthoods and lesser distinctions conferred on the Chairmen of the local organisations of the party in power, or on those of its supporters in Parliament who have not, perhaps, obtained distinction in other ways. In 1922 a scandal arose because many people had obtained Honours by contributing generously to the Party funds of the Coalition. No flagrant example has occurred since; but it can hardly be doubted that a generous gift will at least help the Party chief to remember one's name when the next list is being prepared for the Queen's approval. Political Honours have thus lost most of their lustre, and there are probably many people in political life who would decline them. At King George V's Jubilee in 1935 Honours were conferred on some members of the Labour Movement, although a Conservative Government was in power. There was some feeling in the Labour Party that they should have been refused, as inconsistent with the Party's belief in social equality. Any party, however, is obliged from time to time to create Peers because the Peerage, alone among the Honours, carries with it some political power.

THE CHURCH

As the words "ecclesiastical as well as civil" imply, the Queen is Head of the Church of England. She is accordingly forbidden by the Act of Settlement to be, or to marry, a Roman Catholic, and, at her Coronation, swears to maintain the rights of the Established Church. She is crowned by the Archbishop of Canterbury. The Coronation is, indeed, a religious ceremony and an occasion for merrymaking. It has no constitutional importance; as soon as the reign of one monarch ends, that of his lawful successor begins. As Head of the Church, the Queen appoints Bishops, in accordance with the advice of the Prime Minister and is specially

referred to in the Prayer Book. Henry VIII was the first King to take up this position. At that time it was of great political importance because it meant that the Pope had no longer any authority, even in Church matters, in England. Curiously enough, Henry VIII was also the first King to bear the title Defender of the Faith; it was conferred on him by the Pope, before they quarrelled, in recognition of an attack which Henry had made on the views of Martin Luther; it has descended to the Sovereign of England to this day.

SOCIAL ACTIVITIES

When the Queen's political and semi-political work is done, a host of social activities waits for her. She will be asked to open hospitals, libraries, public buildings of all kinds; to lay foundation stones; to hold Courts and garden parties. In recent years these activities have been extended so that the Queen shall have the opportunity of seeing the lives of her poorer subjects, as well as those of the Court circle. Here also she must be careful to avoid any suspicion of party bias. Edward VII once withheld invitations to an M.P.s' garden party, from Keir Hardie and two other Labour M.P.s of whom he disapproved. Now, their constituents might have thought "We do not want an M.P. whom the King dislikes, and we will vote against him next time." It was an attempt to use the social prestige of Royalty for a political purpose. The Parliamentary Labour Party took the matter up, and assurances were given that the mistake would not be repeated.

PERSONAL AFFAIRS

Possibly, when these labours are completed, the Royal Family are, like most people, able to enjoy a private life. It cannot be easy for them to do so, since their least action is the subject of comment in the Press, particularly the picture-papers. They have to exercise constant care lest their acts should be given a meaning which was never intended. While some Princes of the Royal Blood have the right (which they do not exercise) to sit in the House of Lords neither a Queen Consort nor the husband of a Queen Regnant¹ has any legal part in government unless Parliament so prescribes. The Sovereign's marriage, however, is bound to be a matter of great public interest, and the Abdication of 1936 seems to establish the principle that a Sovereign cannot marry against his Ministers' advice and keep the throne. In theory the Sovereign is not supposed to take advice from anyone except

¹ A Queen who is the wife of the reigning King is called Queen Consort: a Queen in her own right, like Queen Victoria, is called a Queen Regnant.

Ministers, but it would be neither possible nor reasonable to prevent the Queen from discussing her work in private with her husband. A recent Act designates the Duke of Edinburgh as Regent, should the need for a Regency arise, and provides that the Queen Mother could be one of the Counsellors of State who, in certain contingencies, perform the royal duties. This is a recognition of the fact that the members of the Royal Family are close to the centre of public affairs.

The Queen's income arises from a sum voted by Parliament—the "Civil List" of £475,000 a year, much of which is needed to meet the unavoidable expenses of monarchy; some £60,000 of it is available to the Queen to spend at her discretion. £40,000 a year is granted to the Duke of Edinburgh and smaller sums to other members of the Royal Family. The Queen's eldest son will enjoy the revenues of the Duchy of Cornwall, but while he is under age most of those revenues are available to the Queen, and the £475,000 of the Civil List is correspondingly reduced. The Queen may, of course, save out of her income, and the savings of previous Sovereigns have accumulated a considerable purely private fortune.

IMPERIAL FUNCTIONS

What is the meaning of the words "of Her other Realms and Territories Queen, Head of the Commonwealth"? The territories are the Colonies which do not enjoy full self-government. A native of these is the Queen's subject, possessing, like ourselves, the status of "citizen of the United Kingdom and Colonies"—so that, for example, a native of Jamaica entering this country would have full civic rights. The realms are the self-governing nations of the Commonwealth, sometimes still called "Dominions", which acknowledge allegiance to the Crown while maintaining independence of the Westminster Parliament. The Queen's constitutional position in a Dominion is substantially the same as in this country, though the work must be done by a Governor-General; her Title in a Dominion will describe her explicitly as, *e.g.*, Queen of New Zealand. The people of the Dominions are British subjects, but have their own laws as to citizenship. India is a Republic with a President at its head: its people recognise Elizabeth II, not as their Queen, but as Head of the Commonwealth; they are not British subjects but would become such if they came to live in this country.

The monarchy does not create Commonwealth unity—kinship and common economic and defence interests are more powerful factors. It does, however, symbolise that unity, focussing men's

affections and gratifying the strong human inclination to personify ideas and beliefs.

CONCLUSION

Why has the monarchy survived? Will it continue? What are its advantages and disadvantages? England has witnessed the same conflicts between feudal lords, between industrialists and landowners, between rich and poor, employers and proletariat, as have other countries. Each party in the contest, however, has wanted to get the stamp of legality on its own proceedings. A victory of any section or class has been followed by an alteration in the powers of the Crown to suit the victor's convenience. The monarchy has been, not so much the citadel of one section's power, as the trump card available for whoever could get the reality of power by wealth or arms. One may take the trump card from one's opponent by force; but one does not tear it up. When Cromwell destroyed the monarchy, he may have thought that act an unavoidable necessity at the time; but it weakened his position and helped to provoke the reaction against him. When the Whigs and Tories at the "Glorious Revolution" of 1688 confirmed his work they took care to alter the monarchy rather than abolish it; and even then they claimed they were not altering it but restoring it to its original form.

Monarchy is thus a device for securing obedience to whoever controls the Government. As Bagehot remarks, "The Monarchy . . . gives a vast strength to the Constitution by enlisting on its behalf the credulous obedience of enormous masses"—and he adds that as long as the human heart is stronger than the human reason, monarchy will survive. Now this is a good argument for monarchy if it is granted that the mass of people are too stupid to see why a Government ought to be obeyed. It might well be a help to the most "Left" of Parties that, once it had a Parliamentary majority, it would become "Her Majesty's Government." If anyone attempted to oppose it by force he could be represented as a traitor to the Queen, and this might win the Government the "credulous obedience" of some people. But a device which gets obedience on unreasoning grounds is a dangerous thing, since it can protect good and bad Government alike. If Bagehot is right, and the mass of men must be governed by a few who are wiser than they, monarchy will serve very well; but what place has it among a people who think about politics and try to govern themselves?

One answer has already been suggested in the examination of the Queen's powers over the Legislature in times of crisis. She

is to be the voice of the Constitution, proclaiming that there is, binding on all Parties, the duty to respect the people's will and to allow that will to form itself by free discussion. Can the Queen fill this position? Despite her frequent appearances among all ranks of the people, the intimate friends of the Royal Family will all be wealthy. Thus the Court easily becomes the centre of snobbery, and the tendency of part of the Press to fawn on the Royal Family aggravates the evil. It is not easy for a woman to do the constitutional work of Queen when the suggestion is ceaselessly made to her that whatever she does is right and marvellous. The old story of King Canute's rebuke to those who said he could rule the tides still adorns many school books; its lesson—that Kings are not Gods, and flatterers are not friends—seems to have been lost on some newspaper proprietors. This evil might be remedied by simplifying the ritual of the Court; money would be saved and the Royal Family relieved of many tedious duties. The example of the Scandinavian countries shows that a monarchy may be simple, and not too closely connected with the aristocracy, without losing any of its dignity or constitutional convenience. At present, when crises arise, all the private influence of friends, which must affect the Queen as it does anyone, will be on the side of wealth and privilege. The privileged classes might even use the Queen's position as Head of the State as a reason for defying Parliament. In 1914, over the Ulster crisis, certain Army Officers argued that their oath was to the King, not the Government, and that they need not therefore support a Government whose policy they disliked. After what has been said about the Queen and the Constitution, it will be clear that this argument was grossly unconstitutional. The danger of monarchy is that it may provide the enemies of government by the people with a rallying ground.

Further, since the monarchy symbolises the Sovereign State, it can be used to rouse hatred against foreigners. A feeling of personal loyalty induces many citizens to refuse to entertain any criticism of the Queen: in time of international crisis, the words Queen and Country are regarded as interchangeable and the loyal citizens are led to believe that the Government of their country is above criticism. A people in this frame of mind can all too easily be swept into war, whatever the rights of the dispute. The preservation of peace depends to-day on the willingness of States to sacrifice some of their Sovereignty for the sake of an international Rule of Law.¹ It is unfortunate that the monarchy can be used to inflame anti-foreign sentiment and hinder this development.

¹ See Ch. XXIII.

Yet there is very little anti-monarchy feeling in the country. The popularity which Queen Victoria won for the Crown waned a little in Edward VII's reign, but was restored and increased by George V. In the Abdication crisis, only a few voices were raised against monarchy itself. If the ordinary Englishmen were told that he needs a monarch because, being one of the credulous masses, he would not otherwise understand the need for Government, he would rightly resent it. If it were then put to him that the monarchy, being thus unnecessary, might be abolished, he would ask what the Queen had done that she should be thus treated? None of the great political problems—poverty, shortages, the preservation of peace—are obviously made harder to solve because Britain is a monarchy. The most radical politician can find many more reasonable subjects for attack—the slum landlord, the monopolist, the owner of property who does no work. Republicanism seems to offer no immediate gains; the personal appearances of the Royal Family create great pleasure; the abolition of monarchy would involve trouble in re-modelling the Constitution; so the Englishman lets things go on as they are. If it is suggested to him that the monarchy may some day be of use to the enemies of democracy, he will reply—if at all—that he will meet that difficulty if and when it arises.

The people do not require their Sovereign to be a genius; they would not feel entirely easy in their minds if she were. The only qualities they ask for are a diligent application to work; a manner which is informal and friendly without being undignified; a patient endurance of the pitiless limelight poured on Royalty; an ability to go through long ceremonial with an appearance of interest; a large measure of common sense and fairness; and an irreproachable family life. The monarch who can fulfil these requirements becomes the symbol of his people and earns their love. It will be fitting to conclude this chapter with an expression of sympathy to the man or woman whom the Constitution places in so curious and exacting a position.

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CHAPTER IV

THE QUEEN'S MINISTERS

Rise of the Cabinet
Members of the Cabinet
Collective Responsibility
Efficiency and Powers of the Cabinet
Non-Cabinet Posts
Salaries
The Privy Council
Reform of Government Machinery

RISE OF THE CABINET

"There will be a meeting of Her Majesty's servants." This was, until recently, the summons to a Cabinet meeting. Just as a feudal lord of the Middle Ages required a bailiff to manage his estate, so did the King require servants to manage his Realm. The great lords could perform ceremonial duties for the King; they could fight for him; but their knowledge of reading and writing—let alone keeping accounts—was often imperfect. So the drudgery of government passed to a group of men of lesser rank chosen by the King for their ability. Since they owed their position to his choice, he could trust in them more fully than in the nobles who claimed rights often conflicting with the Royal Power. When history records the nobility's anger against Royal favourites, it is really recording the anger of a powerful class which sees its power passing into other and more competent hands. Just so did Roman Emperors entrust Government to picked freedmen and members of the middle class rather than to a half-loyal aristocracy. By the 16th century the Wars of the Roses, and the development of artillery which could shatter the feudal castle, had weakened the aristocracy, and the growth of trade had enriched the class which could keep accounts. Thus Queen Elizabeth I governed through her Privy Council, as the group of the Crown's immediate advisers had then come to be called. She recruited it largely from the newer merchant families, not because she disliked the old nobility as such, but because she required competent and loyal servants. The Privy Council is the first effective instrument of central government in England. Dismissal from it would have implied loss of Royal favour, and disgrace; so it was understood that membership lasted for life. In the late 17th century, the division of the governing class into two parties, Whig and Tory, was established, and this created difficulties for the Privy Council. For if it appeared that Parliament preferred a Tory Minister, and Tories were accord-

ingly admitted to a Privy Council which already contained Whigs, the result was a body with constant divisions of opinion. Now a legislative body, such as Parliament, thrives on division of opinion; discussion is encouraged, and a final decision can be made by majority vote. But an Executive, such as the Privy Council was meant to be, requires unity if it is to pursue a consistent policy and make quick decisions. If there are unbridgeable differences, the discussion already held in Parliament will be repeated interminably. So it became necessary to select from the Privy Council an inner ring, probably of one party, to carry on the Government. Charles II chose now one group, now another, so that for each department of policy he could have Ministers who agreed with him; and since he met them in secret, the Privy Council as a whole could never tell who was responsible for the advice given to the King. The idea of an Inner Council thus became unpopular; it was believed to be an instrument of Royal despotism. The word "Cabinet" means originally a Council meeting in the King's private room, in secret. By the early 18th century the plan was fairly established. It was not recognised by the law, and the odour of a secret conclave still clung to it; it survived because it was necessary. Some group of men, of one mind on major matters, there must be, to do the work the Elizabethan Privy Council had done, now that the Council itself had grown too large. In 1714 there came to the throne George I, who spoke no English; the Cabinet thereupon ceased to meet at the Palace with the Sovereign presiding, and met instead at the house of the First Lord of the Treasury. George I's lack of English was the occasion; the real cause was that power had passed from the King to the Cabinet. The First Lord thus became a kind of Chairman to the Cabinet, and the name Prime Minister was given to him. Critics quoted the example of Richelieu and Mazarin in France, First Ministers whose power had overshadowed King and people alike. But someone must preside at Cabinet meetings; on occasion there must be someone who can speak, not merely for one department of government, but for policy as a whole. Necessity grafted the Premiership as well as the Cabinet on to the Constitution. To-day the Cabinet is rarely referred to by name in public official documents. It is only in this century that the title of Prime Minister has received official recognition; the holder of it is still called "First Lord of the Treasury and Prime Minister."

The Cabinet is, then, the group of the most important Ministers. Nearly every member has a department of his own to manage; but in addition, he shares with the other members the task of determining the general lines of Government policy. The details of the

Milk Marketing Scheme, for example, are a matter for the Minister of Agriculture; but the decision to make this, and other such schemes, part of Government policy is a matter for the Cabinet. It is necessary to co-ordinate policy through the Cabinet because nearly all important decisions involve the spending of money; if each Minister could decide independently what money he would spend, the national finances would be in chaos. Further, the policy of one department must affect that of its neighbours. What Armed Forces are necessary depends on what sort of foreign policy is to be pursued. The Minister of Labour cannot usefully consider the problem of unemployment among boys and girls unless he knows the views of the Minister of Education on the kind of teaching they should have at school and the age at which they should leave. The Minister of Health cannot urge local authorities to build more houses if the Chancellor of the Exchequer is compelling them to spend less money. The purpose of the Cabinet is to fit the plans of different departments together so that they make up a consistent policy. One of the tests of a good Prime Minister and a good Government is the efficiency with which this task is performed.

MEMBERS OF THE CABINET

When the Prime Minister, appointed after an election victory of his party, is forming the Cabinet, he must look round at the prominent party members. His difficulties will be chiefly personal. So-and-So would make a good Minister of Works; but he would like to be, say, Foreign Secretary, and will not come in for less; he is a popular man and his absence would weaken the Government. Somebody else is able and well-known; but he cannot argue without quarrelling and will be a source of trouble at Cabinet meetings. Two men would be suitable by themselves, but cannot get on together; another will not come unless his friend also is given a post. So a good Prime Minister must understand men as well as facts; and a good Cabinet Minister will be able not only to master his Department but to discuss policy reasonably with his colleagues. Cabinet Government is a severe test of ability, and every Cabinet brings surprises, as hidden talent is discovered or promising material disappoints: so from time to time Cabinet "re-shuffles" are necessary and a further demand is made on the Prime Minister's tact.

The members of the Cabinet are :—Prime Minister, Lord President of the Council, Lord Chancellor, Lord Privy Seal, Chancellor of the Exchequer; five "Secretaries of State"—for Home Affairs, Foreign Affairs, Scotland, Commonwealth Relations, and Colonies: the Minister of Defence, the President of the Board of

Trade, the Minister of Housing and Local Government, the Minister of Education, the Minister of Labour and the Minister of Agriculture and Fisheries. The Minister of Transport, the Minister of Works, and the Minister of Fuel and Power may be included in the Cabinet, and the total to-day is about eighteen members. One man may hold two offices; the Secretary for the Colonies used to be Secretary for the Dominions as well; but in recent years this practice has become less frequent. When it does occur it is usually the prelude to some re-arrangement of the duties of Ministries.

Several of the Cabinet Ministers' titles explain themselves. The Lord President, the Lord Privy Seal and the Chancellor of the Duchy of Lancaster have very little to do as such—the titles are historic survivals. As new tasks of government arise they may conveniently be given to one of these Ministers. The Lord President watches the progress of socialised industries, and after the war of 1939-45 the Chancellor of the Duchy supervised policy in the British zone of Germany. Occasionally a Minister without Portfolio—*i.e.*, without a specified Department—is included in the Cabinet: Mr. Arthur Greenwood held such a post in the 1940 Coalition.

COLLECTIVE RESPONSIBILITY

Meetings of the Cabinet are held regularly and frequently while Parliament is sitting, and special meetings may be summoned at any time by the Prime Minister. They are private, and only since 1916 have regular Minutes been kept. These record the decisions taken; they are not published, and it would be a breach of the Official Secrets Act for a Minister to divulge what was said at a Meeting. In 1931, after a crisis which broke up the Labour Government, there was some dispute as to what had been said at certain Cabinet Meetings; in the absence of records, the House of Commons had to make what it could of conflicting accounts. But though discussion is private, decisions are made plain in the actions of the Government. For these decisions all members of the Cabinet are responsible. This is the "doctrine of collective responsibility"; it exists for the same reason as the Cabinet itself—that the policies of Departments affect one another. A First Lord of the Admiralty who pointed with pride to the size of the Navy could not fairly deny his responsibility for the taxes imposed by the Chancellor of the Exchequer. To preserve the idea of unity, the Cabinet generally refrains from settling disputed questions by a vote; it is the business of the Prime Minister, after hearing the discussion, to "take the sense of the meeting" and declare the Government's policy accordingly. A Cabinet Minister who openly

opposes Government policy will be expected either to withdraw what he has said or to resign. Opponents of a Government are always on the look-out for statements by unwary Ministers which suggest that the Cabinet is not united. In 1932 the "Samuel Liberals" in the Government disagreed with the tariff policy of their colleagues. For a time an "agreement to differ" was observed—an exception to collective responsibility, allowing the Samuelites to express their disagreement on this one point. Before, long, however, they withdrew from the Government; and though it was in name a Coalition of several parties, in fact it was overwhelmingly Conservative.

EFFICIENCY AND POWERS OF THE CABINET

The Cabinet has been described as the link between Executive and Legislature. The custom, though not the law of the Constitution, requires that all its members should sit in either the Lords or Commons. Occasionally a Cabinet Minister will not be in Parliament, but when this happens, he will be put up to fight the first by-election at which he has a chance of victory. Mr. Ramsay MacDonald continued in the Cabinet after his defeat at the 1935 Election, but returned to Parliament in 1936. Sir Henry Slesser became Solicitor-General in the first Labour Government before he had ever sat in Parliament. The Chancellor of the Exchequer and the Home Secretary are always in the Commons, and it seems probable that in future this will be true of the Prime Minister as well. The appointment of a Peer—Lord Halifax—as Foreign Secretary in 1938 provoked criticism in the Commons. Since the Commons represent the people, they desire close contact with the Ministers whose work affects the pockets and liberties of the people. The Lord Chancellor is always, and the Lord President frequently in the Lords. There is a rule that not more than six Secretaries of State shall be in the same House. It is to Parliament, and particularly the Commons, that Ministers are responsible, and they are liable to be questioned on policy, though they need not answer. On the other hand, the Cabinet frames the timetable of Parliament, and consequently has considerable power over it.

How far is the Cabinet, in its present form, suited to its task? A body of eighteen members is somewhat large for making general decisions, and proposals for reform often include the suggestion that the Cabinet should in future consist of only eight or ten Ministers. These might represent Finance, Home Affairs, Law, Defence, Economic Policy, Social Services, Imperial Affairs and Foreign Affairs. The present number has certainly not been chosen

because it was suitable; it has grown from about a dozen as the work of Government expanded. Probably Government activity will grow more in the future and the expansion of the Cabinet will make some re-organisation necessary. A smaller body could act with greater efficiency, as was demonstrated during both wars, when a special War Cabinet took charge. None of the proposed eight or ten members would be overloaded with the details of his Department, for each would have Ministers subordinate to him. The distinction between administering a Department and framing general policy would become sharper, and the latter task would be carried out by men who would have time to make it their special work. Some of the offices have been shown to be unnecessary, and a change in the nature of the Cabinet would give an opportunity for abolishing them. At the same time the work of the Ministers excluded from the reformed Cabinet would come under review and, in some instances, could with advantage be differently allocated among them. Opponents of this proposal urge that the reformed Cabinet would be liable to reach decisions without taking into account the difficulties of working them out in detail, and that the concentration of power in a few hands may encourage dictatorial methods of Government. The reader can profitably reserve his judgment until the various Departments have been examined. For the question is not simply, shall there be ten or twenty Cabinet Ministers? The smaller number would involve the re-arrangement of the work of several departments. The device of a single Ministry of Defence, with Navy, Army and Air Force subordinate to it, has already been adopted: a similar re-grouping of the social service departments, and of the departments controlling production, might follow. Cabinet reform on these lines is most likely to be supported by those who hope to see increased Government activity in, say, economic or military matters; for then the Cabinet must either be reformed or grow unworkably large. Those who believe that economic matters are best left to Private Enterprise will be less impressed by the need for change. This illustrates a general truth about politics—that problems of machinery of Government cannot be decided “on their merits”; they must be decided with one eye on the economic needs of the time. No one can compare a lawn-mower and a sewing-machine “on their merits”—one must first decide whether one wants to cut the grass or make a dress.

Unofficial adaptations of the Constitution usually precede any avowed reform, and the Cabinet has already devised two methods of dealing with the increasing pressure of business. The first is its Secretariat, which came into existence with the 1916 decision

to keep minutes. A large staff looks after the Cabinet's documents, prepares its business and collects information. The Cabinet has thus lost some of the atmosphere of an informal meeting and become more like a business committee. Secondly, it is a regular practice to appoint Cabinet Committees consisting of a few Ministers. Some of these are permanent Committees, and others may be set up to deal with problems on which special information must be collected before the Cabinet will be able to make decisions. These Committees inquire into facts and report on them, but the rule that policy must be settled by the whole Cabinet still remains. If a list were made of the Ministers who most frequently do this work, there would appear an unofficial Inner Circle not unlike the proposed smaller Cabinet.

The Cabinet is sometimes criticised because it is chosen by one man. Some time ago Lord Rothermere suggested that each party leader ought to say, at election time, whom he will choose for his Cabinet if the party is victorious. This would give the Press time to hunt up the past speeches of some of the proposed Ministers and run a personal campaign against them. There are few men in public life who have not said some foolish things—except those who have refrained from saying anything worthy of note. Another view, put forward by the rank and file members of political parties, is that the Cabinet should be elected by the M.P.s of the victorious party. This would ensure that every shade of opinion in the party was represented; the Prime Minister would not be able to stock the Cabinet overfull with his personal friends, or with those who could always be relied on to agree with him. But if a party think that their leader will act like this, they had better choose another. A Cabinet must act as a team, and must therefore be chosen by someone who can see what the whole will be like. No doubt this places great responsibility on the Premier. He personifies the Government of the day, as the Queen personifies the State. But he will only keep his power to choose as long as he uses it prudently. If he offends one section of his party too much, they may break away and perhaps vote against his Government in Parliament. If a Minister becomes unpopular with the people, it will be wise to shift him to another post, or out of the Cabinet. Sir John Simon was not a popular Foreign Secretary; Mr. Baldwin reshuffled his Cabinet some months before the 1935 Election and Sir Samuel Hoare took Sir John's place. Later an extraordinary outburst of popular feeling about Abyssinia caused the Foreign Secretaryship to pass on to Mr. Eden. So, spasmodically, the country may affect the choice of Cabinet Ministers.

When people speak of "the Government" they usually mean the

Cabinet. No important action of Government is taken, except on its decision; no law is passed of which it disapproves, and the majority of laws are its creation. Do the people, then, at elections, hand over their destinies to a group of twenty men for the next four or five years? It looks very like it. "Hold your processions and demonstrations," said Lord Birkenhead contemptuously to the Opposition in 1927, "we shall put this Bill (the Trade Disputes and Trade Unions Bill) through." Lord Birkenhead could speak thus because the Conservative M.P.s were solidly behind the Government, and the public outside were not overwhelmingly hostile. If either of these conditions had been changed, the Government's policy would have changed also. The Unemployment Assistance Regulations introduced in 1934 were swept away by the people's hostility. The Cabinet is entrusted with great power, but it is not a dictatorship; still less is the Prime Minister, faced with the job of holding the Cabinet together, a dictator.

NON-CABINET POSTS

Outside the Cabinet is the rest of the Ministry; here are to be found the First Lord of the Admiralty, the Secretaries of State for War and Air, the Ministers of Food, Works, Supply, the Postmaster-General, the Law Officers, the Under-Secretaries, Parliamentary Secretaries, Financial Secretaries and Government Whips. Each of the Secretaries of State has an Under-Secretary, and the other Ministers have similar subordinates.¹ Frequently, where the Secretary is in the Commons, the Under-Secretary will be in the Lords and *vice versa*, so that the Government may have a spokesman for each Department in both Houses. Two types of men occupy these positions. First, the young men who are learning the ropes and hope in time to enter the Cabinet. Next, an older group who for one reason or another have not been found suitable for Cabinet rank, but whose diligence in one Department, or loyalty to their party, give them a claim to some post. The Ministry is simply a list of all the office-holders; it does not act together in the manner of the Cabinet. Ministers outside the Cabinet are expected to agree, in their public speeches, with the whole of the Government's policy; but an occasional disagreement does not cause much stir. Mr. Baldwin once created some amusement by remarking about a middle-aged non-Cabinet Minister in his Government, who had made a speech that did not represent the Government view, that "he would know better when he had

¹. In the Foreign, Colonial and Scottish Offices there are "Ministers of State" holding an intermediate position between the Secretary of State and the Under-Secretaries.

reached years of discretion." When in 1938 a newly appointed Under-Secretary expressed opinions on a grave matter of foreign policy on which the Cabinet had not pronounced, there was much criticism and he had to apologise in the Commons for his "indiscretion."

SALARIES

Ministerial salaries are determined by various Acts, notably those of 1937 and 1957. The Prime Minister receives £10,000, the Lord Chancellor £12,000 (£8,000 as a Judge, and £4,000 as the equivalent of Speaker in the House of Lords); other Ministers draw £5,000, and the usual salary for a junior Minister is £2,500. The Speaker of the Commons receives £5,000. The 1937 Act introduced the idea of paying a salary, now standing at £3,000, to the leader of the Opposition. This is a recognition of the democratic principle that those who disagree with the Government of the day are, equally with its supporters, part of the State. If the Leader of the Opposition is to do his work properly he must have an office and staff, though not on the same scale as a Minister. Both he and all Ministers and junior Ministers who are Members of the Commons receive, in addition, £750 as M.P.'s. The salary for a private Member, with no Ministerial post, is £1,750: it is reckoned that about £750 of this will be needed to meet the expenses of his work, leaving £1,000 as a salary to live on.

Over the years, as the value of money has changed, it has been necessary to raise these salaries to their present figure, and each increase has called forth some criticism. How much Ministers and M.P.'s. ought to be paid must depend on the expenses of their work and the general level of incomes outside politics. If an arrangement of the world is permitted which allows one man to get £20,000 a year for the mere ownership of property, and enables successful lawyers and industrialists to draw five-figure incomes, it is hard to object to £5,000 or even £10,000 a year for Cabinet Ministers. £8,000 a year is thought necessary to secure the right type of man for a High Court judge, and £6,000 for a top-rank Civil Servant. It may be argued that human society would be improved if very large incomes—and very small ones—were abolished: but there is little to be said for admitting the general principle of inequality and then making special exceptions to it to the disadvantage of public servants.

THE PRIVY COUNCIL

Thus has the Cabinet developed from the Privy Council; but the latter was too old and distinguished a body to vanish from

* The Lord Chancellor now receives £12,000.

the Constitution. Though no longer the real Executive, it is still important. Some of the Royal Family, the Archbishops of Canterbury and York, the Speaker of the House of Commons, various Judges, Governors-General and Ambassadors belong to it. A Privy Councillorship carries with it the title "Right Honourable," and is sometimes conferred, like other Honours, on prominent men not in politics. Since membership is for life the Council usually contains several ex-Cabinet Ministers, now in Opposition, as well as the Government of the day. So all Cabinet Ministers are Privy Councillors, but all Privy Councillors are not Cabinet Ministers. So large and mixed a body cannot govern, and full meetings are only held on ceremonial occasions, for example, when a new monarch accedes to the Throne. When the Council acts as part of the Government, only those members who support the Government of the day will be summoned, and three or four of them will be sufficient. Acts of Parliament frequently give Her Majesty in Council power to make Orders and Proclamations. The Government of India Act, 1935, has a clause which runs, "The remainder of this Act shall . . . come into force on such date as His Majesty in Council may appoint." In the crisis of 1931 the number of Orders in Council which His Majesty was thus given power to make increased considerably, and attacks were made on the method of "Government by Order in Council." Such orders are only effective when there is an Act of Parliament to say so. An Act passed in Henry VIII's reign went so far as to say that all Proclamations made by His Majesty in Council should have the force of law: thus Parliament handed over its Sovereignty in part to the Council, but the Act was repealed in the next reign.

There are two kinds of Executive work. One is the decision on matters of high policy—what are called "political" matters in the sense that political parties disagree about them; the other is the putting into effect of these decisions. The former kind of work belongs to the Cabinet; the latter to the Privy Council and the Civil Service. The Council generally does those pieces of work which have old associations clinging to them, or have a ceremonial connection with the Queen—as, for instance, granting the Charter which turns an Urban District into a Borough. The likeness between the Council and the Civil Service can be traced further; the Council will sometimes review, and recommend a rearrangement of, the work of different Departments; new Departments sometimes start their lives as Committees of the Privy Council—such is still, legally, the position of the Board of Trade.¹

¹ There is also a Committee for Scientific Research, which has not yet grown into a Ministry.

Since the Queen is the Fountain of Justice, the Privy Council—her Council—has always possessed some of the powers of a Court of Justice. In Henry VII's reign these powers were given to a Committee of the Council, known as the Court of Star Chamber. Because of its close connection with the King it was known as a "Prerogative Court," and suffered the unpopularity that fell on all instruments of Royal Power. So, in the 17th century, an attempt was made to limit the judicial powers of the Council to the King's Dominions beyond Great Britain. The attempt was not wholly successful, and when the Overseas Dominions grew, the Privy Council found itself, like the Crown, one of the links of Empire. To-day the judicial work is done by the Judicial Committee of the Council, which only the lawyer Councillors attend.

REFORM OF GOVERNMENT MACHINERY

So the Privy Council as a whole is only an ornament. Its real importance lies in the fact that it is an institution from which many convenient pieces of Government machinery can be drawn. It executes many decisions of the Cabinet; it supplements, and suggests reforms in, the Civil Service; it completes the structure of the Courts of Law. The reader will probably, by now, have decided that the Executive machinery has been built up in the most casual fashion. There is scarcely an important part of it that was not originally intended for some purpose different from the one it now fulfils. Half the names do not mean what they say, or mean nothing at all. Every alteration has been made to solve a particular and urgent problem; no one has overhauled the whole in the interests of efficiency. Such a way of making a Government would have led to disaster long ago if there had not been the Privy Council, out of which new parts for the machine could be produced like rabbits out of an inexhaustible hat. The metaphor is appropriate; for the British Constitution is always, like a conjuror, performing the apparently impossible. This ingenuity cannot postpone for ever the labour of re-planning the Government. The number of "particular and urgent problems" increases rapidly and many new bodies have to be created. Some of them, such as the Advisory Council on Production, have only advisory powers; others, such as the B.B.C., make decisions, which, if not of major importance, at any rate affect many people and excite a good deal of interest. But, when the whole structure has become so complicated, who can say how these bodies are really controlled? If the B.B.C. talks on public affairs are too Right, or too Left, for my liking, what useful action can I take about it? Sooner or later a crisis will arise; an arbitrary act by an official may provoke it, or a

quarrel between two Departments. Then the research of private people and the Report of the Haldane Committee on the machinery of Government may begin to bear fruit.

It is certain, moreover, that the Government will in future take responsibility for the direction of a number of industries and branches of the nation's economic life. This may well necessitate the creation of new Government Departments, since there must be someone who can answer in Parliament for every section of the Government's work. A further result will be that the Cabinet will have to formulate and explain a general economic plan—e.g., what part of the nation's resources are to be devoted to export and what to the home market? How much is it desirable that the country should save each year and in what industries should this saving be invested? As the number of Ministers increases and the task of co-ordination of policy becomes greater, the case for a smaller Cabinet, as previously described, is strengthened. Meanwhile, greater flexibility has been introduced into the whole system by the Ministers of the Crown (Transfer of Functions) Act: the powers and duties of one Minister may be transferred to another by Order in Council, provided that Parliament does not express disapproval of the change.

Reform of the machinery of government, however, will not by itself cause the Cabinet to govern better or make the people's will more effective. It has been noticed how the Privy Council rose from being a group of the King's clerks to become the chief organ of Government. This did not happen because such a group could be proved, on paper, to be the best method of Government, but because the men in the group knew their business. Ministers who do not understand, for example, the relation between cause and effect in economic policy, will not rule any better because the Cabinet has been reformed. Scientific study of the needs of the people is the real basis for efficient Government.

BOOKS :

- *JENNINGS *Cabinet Government.*
- *MORRISON *Government and Parliament.*

CHAPTER V

THE CIVIL SERVICE

Laymen and Experts
A Non-Partisan Service
Civil Service Recruitment
Conditions of Work
Influence of the Civil Service
Government by Experts
Expense
Conclusion

LAYMEN AND EXPERTS

The last chapter ended with a plea that politicians should recognise the technical difficulties of their task and train themselves accordingly. The reader may object that there are already trained experts, in the Civil Service. Is not the politician meant to represent the intelligent layman? He has not the detailed knowledge of the expert; but neither does he run the risk, as experts in one Department do, of becoming absorbed in that Department and losing his sense of proportion. For some time it has been the theory of British Government, that each Department should have a lay chief with expert subordinates—the expert advises, but the layman has the last word. There are parallels to this in other spheres of public life: in criminal trials, lawyers will state a case, the judge will explain the questions at issue, but twelve laymen will decide the verdict. This system has been satirised, as in W. S. Gilbert's picture of the First Lord of the Admiralty who had never been to sea, and in the story of the Chancellor of the Exchequer being instructed in the mysteries of decimal points. On the other side, the expert, acting always according to rule, has also been satirised, and some of the most striking improvements in public Departments have come from people new to the work, approaching it with a fresh mind. Florence Nightingale instructed the War Office in the obvious principle that when hospital stores are at hand, and needed, they should be used—there is no need to wait till next month for permission to open them. Common sense, it is argued, acts as a corrective to routine.

There is a real distinction between the work of a political chief and that of a Civil Servant. The former decides what the objects of Government policy are; the latter advises how they can be attained. The former must be ready to move from one Department to another, as the death or retirement of members of his party create vacancies; the latter is usually engaged on one type

of work throughout. The former must leave his work when his party is defeated; the latter is a permanent official.¹ This distinction, however, must not be over-emphasised. No one can say *what* the Government ought to do unless he has some idea *how* it can be done. Ministers, therefore, do make an attempt to understand the technicalities of their Departments: among the leading figures of any party there may be one who has devoted special attention to defence, another to foreign affairs, and so on—if their party is victorious they will probably go to these Departments. In every subject there are certain fundamental rules which anyone of good intelligence can grasp, without making the subject his life-work. For example, a Foreign Secretary may reasonably consult his Civil Servants to find out what are the historical and legal claims of Britain and Persia to the Bahrein Islands; but he ought to have made up his own mind as to what is involved in membership of the United Nations Organisation. A Chancellor of the Exchequer need not be a man whose life has been spent in the City; but he should know what debt conversion means, what conditions are favourable to it, and what results are to be expected if the Government borrows large sums of money. The word “layman” should not be another name for ignoramus; similarly, “expert” should not mean someone who cannot understand anything except his own Department. A little more than a hundred years ago Departments could be found which were run by hidebound officials under the nominal control of a country gentleman who had taken up the work of government because it was the custom of his family. This sort of lay and expert alliance is useless; if the partnership is to be fruitful, laymen and expert must always try to approach one another. The Civil Servant must know, or know where to find, all the relevant facts; his chief must be able to understand the facts when they are put before him.

A NON-PARTISAN SERVICE

Only a limited number of Civil Servants come into such close contact with Ministers. There remains a mass of routine work—answering letter, sending out forms, tabulating replies, copying documents. Civil Servants from the highest to the lowest grade thus perform work which must be done for whatever party is in power. If the people are to be sure that the Government they choose will carry out their wishes, then the Civil Service must be efficient and must give equally good service to all parties. Regulations are made to protect Civil Servants from the least suspicion

¹ Between 1951 and 1957 there were seven successive Ministers of Defence.

of party bias; they are forbidden to stand at any election for a public body or to take any open part in political argument. For the higher grades of the Civil Service this seems reasonable. Relations between a Chancellor of the Exchequer and a high Treasury official might be difficult if the latter were just about to oppose his chief at an election. There is less reason, however, in restricting the activities of clerks and postmen, and the regulations are sometimes quietly ignored. In return for this restriction on his liberty, the Civil Servant gets security in his post. Legally he is a servant of the Crown and can be dismissed at a moment's notice; in practice his job is safer than any other. This contradiction has two useful results. The practical security attracts competent men to the State's service; it enables them to do their work without trying to curry favour with a particular Minister; it puts them above corruption. The legal liability to dismissal could be used as an emergency weapon against a Civil Servant who flagrantly neglected his duty or abused his trust: very rarely indeed has it been used.

A non-party permanent Civil Service, made up of people chosen for ability, is thought of to-day as a necessity for good Government. This has not always been so. In the 18th century a large proportion of Civil Service posts were filled, by Ministers, with their relatives, dependants and friends. Public work was often placed in incompetent hands; and the Government of the day could always rely on its employees to vote for it at elections. A change of Government might be followed by a complete re-staffing of the Civil Service. Sir George Trevelyan describes an especially flagrant instance of this, after the Parliamentary victory of the Government which concluded the peace in 1762, ending the Seven Years' War. "The fight was over and the butchery began. Everyone who belonged to the beaten party was sacrificed without mercy, with all his kindred and dependants; and those public officers who were unlucky enough to have no political connections fared as ill as the civil population of a district which is the seat of war between contending armies. Clerks, messengers, excisemen, coastguardsmen and pensioners were ruined by shoals because they had no vote for a Member of Parliament, or because they had supported a Member who opposed the Peace."

In 1829 Sir Robert Peel, as Home Secretary, faced the serious problem of the policing of London. He created a new body of public servants, the Metropolitan Police. The population was growing; there was much misery and crime; if the new force did not do its work the capital would be in chaos. "We should deserve to be crucified" wrote Sir Robert to a friend "if we made a job

of this." So arose an example of a public service recruited for ability and not by jobbery. As the work of Government and the need for efficiency grew, the new idea spread. An examination system was introduced for applicants for Civil Service posts, and by 1870 open competition was established. Two years later voting by secret ballot replaced open voting at elections, and Civil Servants were able to use their votes without offending one party or another. The Industrial Revolution, which, during the 19th century, changed the face of Britain and the lives of her people, is well known: less obvious, but scarcely less important, was the revolution in administration, which gave the country, instead of a collection of placemen, a trained and uncorrupt Service.

CIVIL SERVICE RECRUITMENT

At the outbreak of the war of 1939-45 there were approximately 200,000 Civil Servants, excluding Post Office employees. First came the Administrative class, which included the Permanent Secretaries placed at the head of each Department and all those whose work involved the making of important decisions and the giving of advice to Ministers. The kind of examination set for entry into this class was suitable for University graduates: the Civil Service thus became, together with the Law, some branches of journalism, and University lecturing, one of the recognised careers for the abler University students. Next was the Executive class, containing those who did such subordinate work as required a good education. It was filled partly by promotion from the lower grade but chiefly by young people leaving secondary schools at about eighteen years of age but not going on to a University. The secondary schools also provided many recruits for the third, or Clerical grade. Finally there were writing assistants and typists: all of these were women and the posts were such as could be obtained by girls from elementary school who supplemented their education with work at evening classes. The most striking fact about this arrangement was the way in which it fitted the education system of the time. From the products of elementary school, secondary school and University it picked those whom it thought suitable and for the most part they remained in separate grades throughout their work.

The war increased the number of Civil Servants to about 500,000, and though this total has since declined, the wider range of government activity makes it certain that the figure will in future be permanently above the pre-1939 level. The main structure of the Service remains the same but there have been substantial modifications in the method of recruitment. During

the war it was necessary to bring into the Service, particularly into the higher ranks, persons with outside experience of trade and industry. At the close of hostilities many people who had been in the Armed Forces turned to the Civil Service for employment, and indeed were frequently found to have acquired experience of special value. Many of these newer entrants were destined to be only temporary Civil Servants, but provision was made for the retention of a certain number as the reconstruction of the Service to meet the post-war situation proceeded. At the same time increasing use was made of psychological inquiry to discover the aptitudes of candidates for the more responsible posts. War-time experience, therefore, has invigorated the Civil Service and made it an instrument capable of dealing with a wider range of tasks.

As, in the years ahead, the effects of the Education Act of 1944 become apparent, we may expect further changes. The Administrative grade has been largely recruited from persons coming from the upper and upper middle classes, and educated at the Public Schools and older Universities: and it might well be argued that persons of this type would inevitably find it easier to co-operate with Ministers of their social class than with those who come from poorer homes or have had less expensive schooling. The method of recruitment could hardly be blamed for this; the Civil Service must have highly educated men, and if opportunities for education are restricted the fault lies in the educational system. As the chance of a good education is extended to increasing numbers, so the recruitment of the Civil Service can become more democratic.

CONDITIONS OF WORK

The whole task of examination and appointment is, subject to Acts of Parliament, in the hands of the Civil Service Commission which was created by Order in Council in 1855. It is the Treasury, however, which acts as the "employer" and makes regulations for the general discipline of the Service. The Civil Servants are allowed to form associations—chief of which is the Civil Service Clerical Association—to negotiate with the Treasury about wages and conditions. The salaries of many Civil Servants used to vary with the movements of the cost of living. The plan led to many disputes, particularly during the period of falling prices after 1929, and has now been abandoned. With regard to hours, holidays, and general conditions, the Civil Servant is very favourably placed. There is, in the Whitley Councils established since the 1914 War, a permanent machinery for negotiation about conditions of service. If the Treasury and its employees cannot agree, they may

send the points in dispute to be decided by three arbitrators: two of these represent the parties in dispute, and the third represents industry; his presence is a reminder of the fact that all Government expenditure comes in the end out of the wealth that industry produces.

INFLUENCE OF THE CIVIL SERVICE

So the Civil Service is a trained body of experts on whose help every Government must rely. As long as they do the work required of them they cannot be dismissed, they cannot be publicly criticised, they will not be blamed if the results of their work are not to the country's liking. All these misfortunes are the lot of politicians, not Civil Servants. Being in so strong a position they cannot help influencing Government policy; and it is often said that the Civil Servants really rule the country. Two facts strengthen this belief in the mind of the ordinary citizen. When the Government takes any action that affects him personally, it is usually a Civil Servant with whom he comes in contact; when he argues about his Income Tax, or his right to a Pension, he will argue with a Civil Servant. Further, the voter notices that, despite the fury with which parties attack one another at elections, no tremendous changes occur in men's lives, as far as he can remember. What truth, then, is there in the charge that the British form of Government is "bureaucracy"—rule by officials?

Civil Servants may discourage a Minister who is trying to start a new policy by drawing his attention to the difficulties. A Minister may, for example, wish to introduce a Bill concerning the hours and conditions of work for young persons in industry. It is pointed out to him that certain industries will be exceptionally handicapped by restrictions on juvenile labour; that the safety precautions which he wishes to impose will add to the cost of production; that some occupations are particularly liable to emergencies and irregularity in hours of work and are consequently less amenable to precise regulations; that the enforcement of the provisions he desires will mean an increased number of inspectors; that the imposition of new regulations may prevent industries from fulfilling contracts for the export market and so damage the country's trading position. The reader will object that the Minister ought to have thought of all this for himself, before deciding on his policy. No doubt; but the critical question is one of quantity. How much extra expense will be caused? How great will be the inconveniences? How far do they make it wise to alter the original plan? How long will it take to make the preparations necessary before the new policy can be enforced? These questions can only

be answered when a mass of facts has been collected. If the Minister is to be the real chief he must judge which statements are so important that he ought to verify them for himself and make the facts part of his knowledge, not merely part of what he has been told. He cannot give a personal interview to every employer; he cannot himself answer or even read every letter that manufacturers' associations, Trade Unions, youth organisations and other bodies will send him. He must judge whom it is worth while interviewing, and at what points his personal intervention is most effective. If he cannot do this, the Civil Service will rule; not because they are eager for power, but because somebody must make decisions, and, if the Minister cannot, only they are left. The Minister has to defend his policy in Parliament and in the country, and if he has not grasped the essentials for himself, this fact will soon appear under the searchlight of debate. "These answers," said Mr. Lloyd George, in a debate on an important Bill, "are not intelligible; and it is not the fault of the Minister, for he read, very clearly, the statement that had been given to him."

If this were all that bureaucracy meant, there could be little objection. Ministers who wish to make changes without realising the difficulties, only cause confusion, and the sooner they are discouraged the better. But there are two reasons for supposing that Civil Servants are likely to exaggerate the difficulties of anything new. First, their work requires them to cultivate habits and routine: if documents are not filed on a definite plan, no one will know where to find them. The Civil Servant is not alone in this: an efficient student keeps his books and papers tidy; an efficient business staff keeps regular hours. But in the Civil Service, an exceptionally large proportion of the work can be reduced to rule, and people who work thus are in danger of becoming the slaves of habit; they begin to think that the only good work is the work one is accustomed to doing. Under one Government, the Civil Service may be encouraged to seek for every possible way of cutting down expenditure: a new Government arrives, convinced that some of the public services have been starved and determined to expand them. No doubt it is good to avoid waste; but it is also good to know how to spend wisely, and a Civil Servant who has for years been devoted to the former cannot easily turn his energies to the latter. When the late Mr. Arthur Henderson became Foreign Secretary he is said to have supplied every important Civil Servant in his Department with a copy of his party's policy. Not every Minister is as resolved upon—or even as well acquainted with—his policy; nor is it always easy for a

Minister to secure loyal support for a change, unless he is patient and tactful.

Secondly, the Civil Service, like all professions, breeds among its members a spirit of professional pride. This is natural and right; without such a spirit there would not be so good a Service. But it may encourage the belief that the Civil Servant always knows best, and incline him to be contemptuous of the Minister who comes for the first time to the job to which the Civil Servant has given his life. Further, each Department may develop traditions of its own, and this will hamper co-operation between the Departments, and check the development of new pieces of Government organisation.

These two evils—rigidity of mind and professional jealousy—are what is meant by “red tape.” It is not a disease found only in the Civil Service. The professional pride of doctors protects the public from quackery; but it has also been responsible for the obstinate opposition to the Health Service. Business men write “your esteemed favour” when they mean “your letter” for no better reason than that it has been done in the past. To say that Civil Servants are liable to be entangled in red tape is to say no more than that they are human beings.

If the Civil Service were determined to obstruct the Government because they disliked the policy, the obstruction would be very formidable. The German Republic and the Spanish Republic both suffered a great deal from the hostility of the higher Civil Servants. Such an attitude is, of course, disloyalty, and, in effect, a form of rebellion; the only remedy would be for the Government to staff its Services afresh with people who would recognise the claim that any lawful Government has over them.

The power of the Civil Service does not show itself only in the negative form of checking or modifying new proposals. The history of the Factory Acts provides an example of positive activity. The Act of 1833 is a landmark in factory law because it provided, for the first time, inspectors appointed and paid by the Central Government. Unafraid of the disapproval of employers, they were able to enforce the law and to notice the various ways in which it could be kept in the letter but broken in the spirit. Their reports became valuable stores of information for any Government wishing to improve factory conditions. From them was learnt the necessity of letting the workpeople know what their legal rights were; how regulations for the health of young workers could be made effective; which safety precautions were of chief importance. Just as the Cabinet prepares Bills for Parliament, so the Civil Service may prepare Bills for the Cabinet. The fact that the law

is not codified—i.e., arranged in sections according to subject—increases this power. For example, the main plan of post-war Unemployment Insurance was set out in the 1920 Act. As parts of this proved unsatisfactory in practice, or were made so by changing circumstances, a string of amending Acts followed, till the whole subject was tangled, and very few people could give a clear account of it. The real experts were the unemployed themselves, and the staff of the Ministry of Labour. When, therefore, the 1934 and 1935 Acts were being prepared to clear up the position, it was very largely Civil Servants who had to frame them. The same process can be traced in every department of law-making.

But, once again, where is the objection? Here is a defect in the Constitution—that there is no one charged with the task of reviewing the law and trying to keep it both easy to understand and in line with public opinion. The Civil Servants obligingly remedy this defect. But there are two questions to be asked about any law : first, is it workable from the point of view of those who administer it? second, is it just for those whose lives are ruled by it? Now the Civil Servant is concerned with the first question; he assumes, quite properly, that it is the politician's business to know public opinion. If the politician neglects this duty laws will be made which suit those who work them rather than those who obey them; this is absurd, because the only reason for obeying laws is to get some good from them. The appearance of something very like *droit administratif* in the British Constitution has already been noticed. Not content, apparently, with influencing the actions of Ministers and the making of laws, the Civil Service takes over work which should properly belong to the law courts. This illustrates again the bureaucratic habit of giving more weight to convenience than to justice. Lord Hewart, in his book, *The New Despotism*, made a vigorous attack on this development of Civil Service powers. But, to the charge of despotism, the Civil Servant can reply that the processes of law are long, costly and uncertain. A Committee which reported on the subject in 1932 realised that if the authority of Courts over the decisions of Government Departments was to be restored, the procedure of the law would have to be simplified.

This account of the power of the Civil Service leads to one general conclusion. The bureaucracy becomes powerful in proportion to the incompetence of other parts of Government. When there are ignorant Ministers, careless Parliaments, and overburdened law courts, the Civil Service does what it can to carry on the Government in spite of these drawbacks. There is no real

evidence which justifies the picture of Civil Servants as despots, hungering for power. They are, rather, pickers up of unconsidered trifles, and they pick them up because of a professional love of tidiness. If not only trifles, but the Rule of Law and the rights of citizens are left unconsidered, the fault does not lie with the Civil Service.

GOVERNMENT BY EXPERTS

Since bureaucracy is not a selfish tyranny, some are tempted to see in it the perfect form of Government—Government by experts. There are two serious objections to this view. First, that such Government is deceitful. By the imposing show of Cabinet Ministers and an elected Parliament it leads the people to think that they govern themselves, when in fact they do not. A people accustomed to being deceived gets no real understanding of politics and is the natural prey of quacks. This evil lies hidden as long as no great crises arise. But if, for example, a rapid growth of unemployment and poverty alarms the people, they will realise that their votes do not make much difference, and will hand over their liberty to whichever popular speaker has studied the art of deception most diligently. The second objection arises from the recurrent need, in human society, for change. The Civil Servant is trained to understand and work the law as it is; the changes he suggests, while useful, are not fundamental. If a man is to say what political changes are necessary in order to prevent war, he must be able to see what vested interests make for war; and he must understand human nature so well that he can mobilise sufficient support to defeat those interests. This work lies outside the routine of administration and the man who does it enters into the strife of parties and classes. A Civil Servant may, as a citizen have his opinion on such questions; but his work does not necessarily enable him to have a wiser opinion than anyone else.

EXPENSE

Some mention must be made of the view that bureaucracy is extravagant. Civil Servants, it is argued, are not handling their own money, but the taxpayers'; therefore they have no special desire to be careful. In the days of the 18th century jobbery there was much truth in this accusation, but the evil was largely removed by the 19th century reform of the Civil Service. Again, during the War there was extravagance; the trend of Government was to get things done quickly rather than cheaply, and many Civil Servants were new to the work. But the Civil Service works under Treasury control; if some Departments are tempted to swell their own

importance and their expenditure with it, the professional instinct of the Treasury staff is to restrict. Bureaucracy is just as likely to suffer from meanness as from extravagance. The arrangements for getting economy in the public service are not perfect; but here again, the necessary reforms are in the procedure of Parliament rather than in the Civil Service. An ill-informed Press campaign against waste, in the years immediately after the 1914-18 war, made the problem more difficult: men who might otherwise have made useful criticism of Civil Service expenditure hesitated to join an attack whose real object was to starve the social services.

CONCLUSION

When everything has been said, it remains true that the Civil Service must be highly praised for its competence, honesty and willingness to patch up any weaknesses that appear in the Government. It is liable to three defects—"red tape," a tendency to acquire powers not intended for it, and over-fondness for the habits and beliefs of the better educated part of the upper classes. The precautions that can be taken may be summarised as follows:—The educational system can be improved so that the necessary training shall be easily available for all classes. As citizens, voters, and members of political parties, the public can demand from politicians, and develop in themselves, a high standard of knowledge. Florence Nightingale's defeat of the War Office was the result of her own competence; had she gone out to Scutari with nothing but a desire to help the wounded she would have been helpless; her weapons were her determination, her training, her knowledge of how to obtain the necessary equipment for her work. Finally, a review of the newer activities of Government can be made, in order to show what changes are required in the relations between Ministers, Civil Servants and Parliament, now that Government attempts to regulate industry as well as keep order, and what simplification of the law is necessary if Civil Servants are not to escape from its control.

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CHAPTER VI

THE POLITICAL ACTIVITIES OF GOVERNMENT

Classification of Government Activity

- The Treasury
- The Home Office
 - Police and Justice
 - Public Security and Security
- The Scottish Office
- The Foreign Office
 - Keeping in touch with Foreign Countries
 - Assisting British Subjects Abroad
 - Planning Foreign Policy
- The Armed Forces
 - Navy
 - Army
 - Air Force
 - General Considerations

CLASSIFICATION OF GOVERNMENT ACTIVITY

Any Government must be able to keep order; if it does not do this it is not a Government. Further, if it exists in a world of Sovereign States, it must consider its relations with its neighbours. In connection with both these tasks it will decide to keep certain Armed Forces. To pay for these Departments it must get money. So Home Affairs, Foreign Affairs, Armed Forces and Finance may be called the necessary or **POLITICAL** activities of Government. The philosophy called *laissez-faire*, which was popular some 150 years ago, held that, if possible, Governments should attend to these things and no more. Nearly all of the community's economic life—the arrangements for the producing of sharing of wealth—would thus be left outside Government control. By now, however, most Governments have found it wise to take some part in economic life. So there appears a second group of Government activities, which can be called **ECONOMIC**. These again may be divided into those which are meant to encourage the production of wealth and those which affect the way in which it is shared: the latter may be called **SOCIAL** activities. There is nothing sacred about this threefold distribution; it would not suit a primitive tribe, a Greek City State, or the U.S.S.R., but it is convenient for describing the Government of a modern State such as Great Britain. To some extent, also, it fits the history of British Government: the political Departments have had a long life, while most of the others were recently created and show signs of this in their

organisation. The distinction is not rigid; some activities are performed, partly by one Department, partly by another, for purely historical reasons; others, by their nature, are both political and economic. This is particularly true of the activity which will be examined first—that of raising money and managing expenditure. It affects all activities, since none of them can be carried on without it; and it is bound to influence the production and distribution of wealth.

THE TREASURY

The work of this Department was once carried on by a Lord High Treasurer, but for more than 200 years this office has been "in commission"—*i.e.*, its duties have been entrusted to a group of men known as Lords Commissioners. The supreme importance of money caused the First Lord to be the chief man in the Government. He has now become Prime Minister and takes no further part in Treasury work. The member of the "Commission of the Treasury" who really controls it is the Chancellor of the Exchequer, with the Financial Secretary as his second in command. The other Lords have routine Treasury duties—some documents are not valid without their signature—but their real work is to act as Government Whips—*i.e.*, to see that Government supporters in the House of Commons are there to vote when required. The Parliamentary Secretary to the Treasury is the Chief Government Whip, and the unpaid Assistant Whips are nominally attached to the Treasury. A Treasury Minute—*i.e.*, a statement of one of its decisions—usually takes the form, "The Chancellor of the Exchequer recommended. . . . My Lords concur." Also attached to the Treasury is a lawyer who drafts Bills for the Government, and another, known as the Queen's Proctor, who acts for the Crown, when it is interested in civil lawsuits.

In effect, the Commission of the Treasury is two distinct things—a Treasury proper, and what might be called a Prime Minister's Department. Again, when the former of these is considered, the real financial work must be distinguished from the running of Government as a whole. Because it sees to the spending of money, the Treasury has become, through its Establishments Department, the employer of the Civil Service; it has the last word on appointments and salaries, and on any proposal for reorganising a Department which will mean spending money. The work which the word Treasury usually suggests is mainly performed through the Finance Department.

The first duty is to arrange for the collection of money, which is performed by four bodies under Treasury control. The Board

of Inland Revenue collects "direct taxes" such as Income Tax. The Board of Customs and Excise collects "indirect taxes," *i.e.*, taxes on articles produced in this country (Excise) or imported from abroad (Customs). These two boards collect more than nine-tenths of the total revenue. A further sum comes from the Post Office, and the fourth body is the Commissioners of Crown Lands. In the Middle Ages a very large part of the King's income came from land, and no distinction was made between the King's private accounts and those of the State. In 1688 this distinction appeared, when the King's expenditure was set apart in the Civil List: George III, on his accession in 1760, surrendered the Crown Lands to the State and the Civil List was accordingly increased. The growth of public expenditure, and of taxation with it, has made Crown Lands to-day only a very small proportion of the total revenue.

All the money thus collected is paid into the "Consolidated Fund" to the account of H.M. Exchequer at the Bank of England. From time to time the Treasury require an official called the Comptroller-General to require the Bank to enable the Paymaster-General to let the various Departments have the money they need. This long drawn-out procedure is intended to ensure that Parliament, to whom the Comptroller-General is responsible, shall have control over all the money spent. The estimates which each Department makes of its probable expenditure for the next year all come under the eye of Treasury officials, and much consultation will be held between the Treasury and the Departments with the object of keeping expenditure down.

In normal times, the Government spends regularly throughout the year, but its income arrives irregularly; particularly large amounts arrive from Income Tax in January, February and March, the last three months of the Financial year. To provide the Government with money before it is collected, the Treasury borrows by issuing "Treasury Bills"—*i.e.*, promises to repay in three or six months' time. The war of 1939-45 caused a great increase in Treasury borrowing, which now plays a predominant part in the money market. Treasury officials must therefore be acquainted with the business world, they must know when it is easiest to borrow money, and what is the lowest rate of interest the Government need offer in order to get what it requires. Since the plans of the Treasury for taxation and borrowing affect the business world and the chances of making money by speculation and investment, the strictest secrecy has to be, and is, observed, till plans are complete and the Chancellor can announce them in Parliament.

In recent years two factors have led to a great increase in Treasury control over savings and investment. First, industry is greater and more complicated than it used to be and the tasks it undertakes are often beyond the reach of unaided private enterprise. Secondly, war has much reduced the total amount of saving and such capital as is available for investment has to be, in effect, rationed with an eye to the comparative importance to the nation of different industries. There are several methods through which this Treasury control is exercised. The Bank of England is now publicly owned and controlled, and the Act which brought this about enables the Treasury to give instructions to the whole banking system concerning the granting of credit to industry. Firms which wish to increase their capital by the issue of shares, or to borrow money for long periods, must obtain the approval of the Capital Issues Committee, which works under Treasury direction. The Treasury also supervises, through the Public Works Loans Board, the lending of money to local authorities. Further, if the Treasury is satisfied that the raising of a loan by a particular industry or firm is especially worthy of encouragement, it may guarantee the repayment of the loan.

The object of these powers is to stimulate the re-equipment of British industry, to prevent the wasting of capital on unimportant or dubious projects and to avoid a repetition of the heavy unemployment of the nineteen-thirties. The National Investment Council, under the chairmanship of the Chancellor of the Exchequer, has the task of advising the Government on the achievement of these objectives. The Treasury has thus become not merely a political, but a major economic department charged with the planning of investment.

THE HOME OFFICE

The Home Secretary's business is to see that the peace is kept; the power to check crime and bring offenders to justice is in his hands, and he is responsible for seeing that this power is used to promote liberty and not to suppress it. To some extent, also, he is required to promote the personal happiness of citizens, so far as that depends on Government action. This seems a wide definition, and there has in fact been a tendency to load on to the Home Office any work which did not clearly belong to another Department.

1. *Police and Justice.* The chief instrument for keeping the peace is the Police Force. Each county and each of the larger towns maintains its own force, but there is no local activity over which the control of the Central Government is greater. The numbers and pay of the Police and the appointment of the Chief Constable

of each local force must have the Home Secretary's approval; and the regulations of all Police Forces must conform to a pattern laid down by the Home Office. The Metropolitan Police Force, which has power over the London County Council area (except the City of London), and over Greater London, is directly under the Home Secretary's control. For this purpose there is attached to the Home Office a Metropolitan Police Commission in the charge of a Chief Commissioner. An Act passed in 1933 was intended to attract men from Universities into the higher ranks of the Metropolitan Police, and to raise the educational level of the police by the opening of the Metropolitan Police College at Hendon. It was argued that the tasks of the police are now so many that a good education, as well as commonsense and experience, is necessary; also that the police, like the Civil Service, ought to take advantage of the fact that our education system does produce a number of highly trained people. The same criticism, however, may be made of this plan as of Civil Service recruitment: at present, a preference for men from the old Universities means a preference for a certain social class. If most of the higher Metropolitan Police ranks are recruited in this way, it will mean that they are separated in outlook both from the men they command and the public whom they are intended to serve. In no department of Government is this more dangerous than in those, like the Police Force and Armed Forces, which control the liberties of the people. Further, the Police, unlike the Armed Forces, are in constant touch with the public; they tell them to "move on"; they stop disturbances; they are often the real arbiters between motorists, cyclists and pedestrians. These duties can only be performed well by a force which has the confidence of all sections of the public. The Police are appointed by the Home Secretary; the Home Secretary must have the confidence of Parliament; Parliament is elected by the people; all this is true and important, but it does not by itself make the people feel that the Police are well-disposed to them. The good relations which, on the whole, exist between Police and public, spring from the fact that the Police are drawn from the ordinary people.

A Prison Commission, under the Home Secretary, is responsible for the treatment of the 20,000 persons who are usually to be found at any one time in English prisons. Since no man may be deprived of his liberty except in accordance with the law, the treatment of offenders is strictly a matter for the courts to determine. The sentence of a court, however, does not go into details; the food, clothing, hours of work, opportunity for recreation and discipline of prisoners—nearly everything, in fact, which decides

what prison life is like—come under the control of the Prison Commission, except for a few powers which belong to the local magistrates. While only the Judicature can impose sentences, the Royal Prerogative of Mercy enables the Home Secretary to reduce or abolish them; in the most serious cases he usually consults with the Judge who presided at the trial. The great majority of people do not go to prison, and so are not greatly concerned with prison conditions. A great responsibility therefore rests on the Prison Commission and the Home Secretary : this work is not exposed to regular criticism; occasionally some unusual event will awaken public interest.

The close connection between the Home Office and the administration of Justice is also illustrated by the fact that the Home Secretary appoints the Public Prosecutor, and certain magistrates.

2. *Public Welfare and Security.* This title is necessarily vague in order to cover a list of activities ranging from the enforcement of laws against cruelty to animals to regulating the contribution to charity from Sunday cinema performances. Much of this work—for example, the licensing of dog-racing tracks and public houses—is performed by local authorities and magistrates, but questions in Parliament on these topics are addressed to the Home Secretary.

The last war emphasised the need for an efficient Fire Service, and created a body of Civil Defence workers; these services are now managed by local authorities under the supervision of the Home Secretary, who is responsible to Parliament for their efficiency. An important new development in the Home Office has been the Children's Department, concerned with children deprived of a normal home life. The actual care of these children falls to local authorities and to the health and education services, but the Home Secretary has to see that these co-operate effectively to perform the duty.

The Conservative Government which came to power in 1951 gave the Home Secretary the additional description of "Minister for Welsh Affairs" and appointed another Under-Secretary in consequence. The new title and the Under-Secretary have since been transferred to the Minister of Housing and Local Government. Wales, with its mountainous countryside, distinctive language, and memory of past unemployment, has special agricultural, economic and cultural problems. The Minister for Welsh Affairs cannot deal directly with these matters since they require action by several departments, notably Agriculture, Transport and Education: the new arrangement, however, makes the Home Secretary responsible for seeing that his colleagues have regard to Welsh needs. He also bears

an ultimate responsibility for the Channel Islands and the Isle of Man, though these islands normally manage their own affairs.

THE SCOTTISH OFFICE

Scotland, although now part of Great Britain, can look back over many years of complete separation from England, during which she had built up a form of government and a religious tradition of her own. Her economic problems, also, are not always the same as England's because of her colder climate and the barrenness of much of her land. Her educational system is much older than that of England; this is perhaps one explanation of the remarkably large part played by the Scots in the life of Great Britain. For these reasons it has proved wise to administer some Government activities separately, for Scotland. The Secretary of State for Scotland performs the work done in England by the Home Secretary; and has under his control Departments for Health, Education, and Agriculture and Fisheries. When Acts of Parliament affecting these activities are passed, a separate Act is often passed for Scotland.

There is some feeling among Scots that their country is neglected by the Westminster Parliament. Bad communications and scanty opportunities for employment threaten some districts with depopulation, and the resulting problems are not always fully understood by English politicians. So there has arisen a demand for a measure of Scottish Home Rule; all the political Parties have expressed some sympathy with this, but no definite scheme has been planned. Scottish Nationalist candidates occasionally appear at elections, but with little success. This is probably because it has not been proved that further separation of Scottish from English government is the remedy for Scotland's ills. There are remote and neglected areas in England also, whose problems are comparable to those of the Scottish Highlands. In effect, parts of Scotland provide an outstanding example of the difficulty of making a central government pay sufficient attention to the special problems of certain districts: but there is no "Scottish question" comparable to the old "Irish question," because there is not, in Scotland, a nation determined to end a connection which she hates.

THE FOREIGN OFFICE

The purpose of this Office is to represent the State in its relations with foreign Powers. From this fact two results follow. First, that its officials enjoy a special prestige, and exceptional ceremonial is attached to its actions; therefore it has been slower than most

Departments to change its organisation and method of recruitment. Second, that its organisation must be nearly that of a State—it must concern itself with military, commercial, legal and industrial matters, since, from all these, questions of international policy arise. These two results are likely to conflict with one another; rapidly changing methods of diplomacy require the Foreign Office to be up-to-date and adaptable; its own traditions strive to make it rigid.

It is divided into twelve Departments—some of which, such as the American, are concerned with a particular region, and others, such as the Passport Office, with a particular subject. The work may be classified as follows :—

1. *Keeping in touch with Foreign Countries.* At home, the Foreign Secretary regularly receives the foreign Ambassadors and Ministers; abroad, a Diplomatic Service is maintained. In the latter, there is for each State an Ambassador—or for States of lesser importance, a Minister—assisted, by Attachés, *i.e.*, officials with special knowledge, as, for instance, on military affairs. The task of the Diplomatic Service is to inform the Foreign Office regularly of the state of affairs abroad, the feeling entertained by foreign States toward this country, and any events likely to influence our foreign policy. The Ambassador is naturally expected to behave, in personal relations, in such a way as to promote good feeling, and to refrain from taking sides in the political controversies of the country to which he is sent. In 18th century Europe, ruled by aristocracies which had much in common, the chief qualification for this part of diplomacy was polished manners and a good memory for rules of etiquette; to-day, with Government in the hands of many different classes and kinds of people, a deeper knowledge of the social forces at work in each country is desirable.

2. *Assisting British Subjects Abroad.* This is sometimes an Ambassador's work—for example, if British subjects are arrested abroad on a serious charge, it is his business to see that they are given a fair trial. But for lesser, or more private matters, and particularly for advice about their property, British subjects turn to the British Consul. The Consular Service was, until recently, under the control of the Overseas Trade Department of the Board of Trade. Its personnel was separately recruited and kept distinct from that of the Diplomatic Service. Although this distinction has now been brought to an end, the work of Consuls is of particular value to the Board of Trade. Relying on their reports, the Board has been able to supply business men with a large number of publications describing conditions abroad, the possibi-

ties of trade and investment, and the commercial laws of various countries. At present, British overseas trade is subject to exceptional conditions arising from the war; but if, as may be hoped, trade expands in the years of peace, this work will be of increasing importance.

3. *Planning Foreign Policy.* The Foreign Secretary has to decide what general line of policy Britain will follow and what attitude she will take on any critical question. He has also to see to the making and revising of Treaties; for this he has legal advisers, and one of the Departments of the Foreign Office studies international law. The old idea of foreign policy was that the State should decide what it wanted for itself, and, by treaties and alliances, try to gain its object. The newer idea is that the purpose of foreign policy is to maintain peace, and that to do this it will be necessary to consider the wishes of other nations besides one's own. The newer idea seeks to express itself in the United Nations Organisation, as formerly in the League of Nations. The two ideas have struggled together in the world and in the foreign policies of this country, and the problem of adapting Civil Servants to new ideas has been particularly important in the Foreign Office.

There used to be a tradition of "continuity" in foreign policy—i.e., a belief that it should not be changed when Government shifted from one party to another. It was regarded as a skilled mystery which could not be thrown open to popular discussion. To-day, however, the conflict of ideas described above makes "continuity" difficult; nor is it possible to keep foreign policy out of political argument. The people are brought nearer to foreigners by newspapers, wireless, education and travel; they pay for armaments and will be required to fight in wars; foreign policy can therefore excite popular interest as readily as housing or anything which touches the most intimate details of life. This growth of interest was helped by the publicity once given to the League of Nations and later to the United Nations Organisation. It is usual to entrust a special responsibility for relations with the United Nations Organisation to a separate Minister who is sometimes known as "Minister of State"; but the Foreign Secretary retains the final responsibility in this as in other fields of foreign policy.

Peace, war, and treaty-making are parts of the Royal Prerogative, so that the connection of the Foreign Office with the Queen is closer than that of other Departments. All dispatches of any importance, sent out by the Foreign Office, are shown to the Queen, and the Foreign Secretary will have to consider what effect the personal acts of the Queen may have on foreign opinion; far

more foreigners read what the Queen of England is doing than read the reports of Parliamentary debates. A treaty, once drawn up, requires only the Queen's signature to become effective; it need not, legally, be submitted to Parliament, unless, to bring it into force, some change in the law is necessary; this will occur frequently in treaties which regulate trade and require alterations in import duties. Any treaty of first-class importance to-day would, however, be submitted to Parliament after it had been made, even if no change in the law were required.

THE ARMED FORCES

Behind the Police for keeping order at home, and behind the work of diplomacy, stand the Armed Forces, the organised power of the State. In Britain, the Navy—the "Senior Service"—the Army, and the Air Force, the newest of the three, have each a separate history and organisation. It will be convenient first to state briefly the way in which each is controlled, and then to examine certain features and problems common to them all.

The Navy. This was once under the control of the Lord High Admiral. This office, like that of Lord High Treasurer, has been put into Commission, and the Navy is now ruled by the Board of Admiralty. Three of its members are politicians—The First Lord of the Admiralty, who is responsible to Parliament, the Parliamentary and Financial Secretary, and the Civil Lord. Their colleagues on the Board are five Sea Lords, who are sailors and not politicians. While the First Lord determines policy, the Sea Lords are required to carry it out—to see to the building of ships, the recruitment and discipline of men, and the disposition of the Navy over all the trade routes it is intended to protect.

The Army. The controlling authority here is the Army Council, which is organised on the same plan as the Board of Admiralty. The political members are the Secretary and Under-Secretary of State for War, and the Financial Secretary; with them sit a number of military members.

The Air Force. When, early in this century, it appeared that flying was going to play an important part in warfare, both Navy and Army developed Air Services which were first brought under one authority during the 1914 War. Control belongs to the Air Council, presided over by the Secretary of State, with the Under Secretary as Vice-President. They are assisted by the Chief of Air Staff and several Air Members. Civil Aviation is now owned and controlled by the Government through the Ministry of Transport, but contacts between this Department and the Air Ministry are naturally close.

The needs of the Forces for equipment are met by the Ministry of Supply, which was created during the 1939-45 War. This Department is also concerned with the supervision of the iron and steel industry, the conduct of research into atomic energy, and the provision of supplies for housing; and its functions and organisation will probably undergo further change.

General considerations. It will be noticed that each of these bodies is a mixture of politicians and experts. The latter cannot properly be compared with the Civil Servants of other Departments; indeed, each of the Defence organisations has a Secretary who, with his assistants, performs the work of a Civil Service. In these three departments there is a real sharing of control; the First Lord and the Secretaries of State are, it is true, responsible for their Departments but they are usually far more under the influence of expert advice than other Ministers. The overwhelming importance of efficient defence makes them afraid to go against the advice of experts unless they are very sure of their ground. Further, the sailor, soldier and airman enjoy a respect from the public which is not usually given to Civil Servants. This feeling is explained partly by the fact that men of the Armed Forces give up much of their liberty and may be called on to risk their lives in the public service. There is also a less creditable explanation; in a world still ruled largely by force and fear, the experts in force can always command respect. The influence of experts is particularly noticeable in the Navy, the prestige of which, in an island country, is naturally great. The Sea Lords' opposition to plans for Disarmament in 1927 is well known, and it was partly on their advice that the Sedition Act was passed. There are two dangers in this situation. First, that it may lead to militarism—*i.e.*, the belief that war is the only way of settling disputes, and that the country exists for the sake of the Armed Forces, not the Armed Forces for the country. Second, it may actually weaken the efficiency of the Forces. Their whole training encourages the habit of obedience, and of accepting things as they are; after years of such training it is not easy to keep the mind open to new ideas. The reluctance of the Navy to realise the importance of the submarine, and the slowness with which the Army adopted the idea of the tank, are illustrations.

The war of 1939-45 had a profound effect both on the Armed Forces themselves and on the attitude of the nation towards them. In this connection four points may be noticed. First, conscription was introduced even before the outbreak of the war, and public opinion has become much less opposed to the idea of conscription as a permanent measure. Second, there has been a marked

improvement in the pay and condition of men in the Forces. The war gave many citizens personal experience of what had previously been the unvoiced or unregarded grievances of the regular serviceman, and the consequent demand could not be ignored. At the same time the mechanisation of warfare requires an increased degree of skill from the fighting man, and this must be reflected in his pay. Third, the method of selecting commissioned officers was radically changed. Before 1939 officers were, in the main, drawn from one social class and other ranks from another; promotion from the ranks did occur, but not frequently. Service in the ranks has now been made a necessary preliminary to appointment as an officer, and it is open to any man to apply for a commission. The tests applied to applicants are rigorous, and are designed to discover military efficiency, general intelligence and moral and temperamental fitness for command. In the interest of democracy and efficiency alike it is desirable to open career to talent in the Armed Forces, and this is the aim of present policy: its full achievement, however, depends, as in the Civil Service, on improvement in the country's educational system.

Fourthly, the war raised again the problem of co-operation between the Services. In 1946 the solution adopted was the creation of a Defence Committee under the chairmanship of the Prime Minister. Its membership is not rigidly defined, but some of the senior Cabinet Ministers, the Minister of Supply and the heads of the Service Departments will be regular members. At the same time there was established a Ministry of Defence, which has to divide the available men and material between the Navy, Army, and Air Force, and to supervise research, production of armaments and such administrative matters as are common to all three Services. The new Minister sits in the Cabinet, from which the heads of the Service Departments will usually be excluded.

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*CAMPTION. *British Government since 1918.*

CHAPTER VII
THE ECONOMIC ACTIVITIES
OF GOVERNMENT

The Post Office
The Ministry of Transport
The Ministry of Fuel and Power
The Ministry of Agriculture, Fisheries and Food
The Board of Trade
Conclusion

"The third and last duty of the Sovereign or Commonwealth," wrote Adam Smith, after he had dealt with Defence and Justice, "is that of erecting and maintaining those public institutions and those public works which, though they may be in the highest degree advantageous to a great society, are, however, of such a nature that the profit could never repay the expense to any individual or small number of individuals, and which it cannot therefore be expected that any individual or small number of individuals should erect or maintain. The performance of this duty, too, requires very different degrees of expense in the different periods of society." Adam Smith was a champion of private enterprise, but he realised that it cannot work unless the State provides it with a framework of public institutions, of which a system of roads, and lighthouses, are obvious examples. It is also clear from the last sentence quoted that Adam Smith saw that Government activity of this kind would grow. Since his day there has been an increase of services, such as railways and electricity, for which complete competition is not an efficient form of organisation; and the State has extended its control to protect the public from private monopoly. Further, as has been noticed in the discussion of the Treasury, the growth of large-scale business draws the State more and more into the economic field.

Anyone, therefore, who looks at the economic activities of Government to-day sees a fast-changing scene of which precise description is difficult. It is possible, however, to group the Departments concerned into two classes. The Post Office, the Ministry of Fuel and Power and the Ministry of Transport administer services and industries which either have been or are being brought under full Government ownership and control. The Ministry of Agriculture, Fisheries and Food, the Board of Trade, the Ministry of Supply and the Ministry of Works exercise control

over branches of production still, in the main, privately owned and controlled.

THE POST OFFICE

This Department is run by a Board composed of two politicians—the Postmaster-General and the Assistant P.M.G.—and a number of Permanent Officials, including a Director-General and Directors for the different aspects of the work. The Board's first duty is to organise the postal, telegraph and telephone services.

Out of these it makes a profit, or surplus, which is paid to the Treasury. During the last 25 years there has been much argument and change of policy about the proper relations between the Treasury and the Post Office. The former is inclined to regard the latter as a source of revenue, and this tendency may starve the Post Office of funds needed to develop its services. Before the war the Post Office paid a fixed sum to the Treasury and retained any further profits for its own use. More recently, increasing costs have diminished the profits of the Post Office, and its requirements for equipment have been subject to the same control as are other forms of capital expenditure. At present the annual surplus of the Post Office goes to the Treasury, and the passing, every two or three years, of a Post Office and Telegraph (Money) Act provides funds for capital development.

The Post Office does not concern itself only with communications. Having offices in every town and village, it is a convenient channel for much Government business, such as the payment of Old Age Pensions and War Pensions. These, however, are only matters of routine for the Post Office; the determination of policy lies in other hands. It acts as a financial agent for the Government by selling National Savings Certificates, and through the Post Office Savings Bank. The money deposited here comes under the control of the National Debt Commissioners; they invest it in Government Securities, or may lend it, along with other money which comes to them, to Government Departments. The Post Office itself receives money from the Commissioners for capital expenditure—*e.g.*, on buildings, or telephone equipment. The sudden realisation by the public, at the Election of 1931, that for many years Savings Bank money had been lent to the Unemployment Insurance Fund, created a good deal of alarm. In fact, the money is in the same position as any other money lent to the Government, it is safe so long as the Government is not, as a regular practice, spending more than its income.

The P.M.G. is responsible to Parliament for broadcasting, though this is controlled, separately from the Post Office, by the

B.B.C. At present, power is left to the Governors and the Director. The independence of the Corporation is shown by the fact that the Director has, on more than one occasion, addressed groups of M.P.'s and dealt with criticisms. These have usually been aimed at three points :—personnel—the choice of people to broadcast, and the relations between the B.B.C. and its staff: cultural standards—the comparative time, for instance, allotted to dance music and to serious subjects: and the attitude of the Corporation towards politics. One point has been dealt with by allowing the staff to form an association. As to the others, the Ullswater Committee recommended in 1936 that a special Minister should take over responsibility, since the duties were so different from those of a P.M.G. The Government did not adopt this plan, arguing that the Corporation should be independent. Certainly if the B.B.C. were completely under Government control, the party in power would be able to use what should be national property solely for its own propaganda. But at present there is the unsatisfactory position that the delicate question of keeping the B.B.C. impartial and allowing all shades of opinion a chance at the microphone is settled by people who are not, in effect, controlled by Parliament. In all ordinary activities the Government is entitled, and expected, to carry out the policy of the party to which it belongs; but the B.B.C. must give scope to minorities who disagree with the Government.

The B.B.C.'s radio and television services, unlike those of many other countries, are free from advertisement: but in 1954 the Independent Television Authority Act was passed, to create a separate commercial television service. This was the first instance of sharp conflict on party lines in this field.

THE MINISTRY OF TRANSPORT

The two chief activities of this Department are the control of Roads and Railways. Road Transport was at one time the concern partly of local authorities and partly of private companies. The growth of trade and the increase of motor traffic have made the task of maintaining proper roads increasingly expensive, and so more suitable for control by the Central Government. To-day all main roads are under the direct control of the Minister of Transport. The money required to repair and develop them comes from the taxes paid by private motorists and commercial vehicles. Until 1936 these taxes formed a separate Fund, but Chancellors of the Exchequer, short of money to balance the Budget, frequently "raided" the Fund, to the indignation of motorists. The taxes and the expense of roads now go into the national accounts

with the other items of income and expenditure; but it is probable that there will still be some relation between the amount that owners of vehicles pay and the benefit that they receive. The amount of road development is not, therefore, determined by the Minister of Transport, but by the Chancellor. The Minister does, however, decide what use shall be made of the money at his disposal, whether on the roads under his control or by making grants to local authorities. He can obtain from the Development Commission power to compel landowners to sell land needed for roads at a reasonable price.

The Ministry collects and classifies statistics of road accidents, and tries to frame its policy accordingly. But the efficacy of Acts of Parliament, or of the Minister's safety regulations, depends largely on the attitude of magistrates. The best regulations will not help if offenders against them are too leniently treated; and respect for the law is not encouraged by the fact that the same offence may be punished by a 40s. fine in one part of the country and imprisonment in another. The Highway Code issued by the Minister may be regarded as a Ministerial addition to the law; when an accident occurs, the driver's observance, or non-observance, of the Code will go far towards deciding the case.

Railways have always provided many problems for the Government, which has had to consider compensation for landowners, safety, and the protection of the public from excessive charges. The first policy of trying to encourage competition was soon abandoned as wasteful, and in 1921 the Railways Act compelled nearly all the companies to amalgamate into four large groups. During the war of 1939-45 the Government, in effect, hired the railways from the companies and controlled them itself. The Labour Government which came to power in 1945 proceeded to nationalise railways, canals and a large proportion of road transport undertakings; it also nationalised Civil Aviation for which a separate Ministry was made responsible. The succeeding Conservative Government abolished this new Ministry but transferred its functions to the Ministry of Transport, retaining the civil air lines in public ownership. Railways also remained in public hands, though their organisation was altered with the intention of securing less highly centralised control. The road transport undertakings, however, were—after a prolonged Parliamentary struggle—sold to private enterprisers. The organisation of the nation's transport is, therefore, in a state of flux, and its future is highly problematic.

THE MINISTRY OF FUEL AND POWER

The nationalisation of coal, gas and electricity has been accepted

as permanent, and it is for the Ministry of Fuel and Power, working through the National Coal Board, the Gas Council and the British Electricity Authority, to ensure the abundant production and economical use of these commodities. The Minister appoints these Boards and lays down the general policy, while leaving day to day administration in their hands. The proper relationship between Minister, Boards and Parliament has yet to be determined: nor, as yet, have the Consumers' Councils, established by the nationalisation Acts, given effective representation to the views of consumers. The economic and social forces which led to nationalisation have created an administrative problem which British political ingenuity has yet to solve.

THE MINISTRY OF AGRICULTURE

The first purpose of this Department was to collect information about agricultural methods. It soon appeared that there was a special need for the Government to act in the prevention of disease among animals. Farmers could not be left to deal with this as they pleased, since the carelessness of a few could cause widespread infection. The Ministry, through its Inspectors, sees that the legal standards of health and cleanliness are maintained; it receives reports of the outbreak of infectious disease and makes orders to restrict the movement of animals, or for their destruction. The study of disease led to the general application of science to agriculture, and to-day the Ministry runs experimental farms and agricultural colleges, either under its own control, or through the Agricultural Committees in each county.

As world trade increased during the 19th century, Britain's special fitness for industry and commerce was made plain. She could not grow unlimited food; but by developing her industries and importing food from less industrialised countries she could keep her growing population and give them a rising standard of life. The repeal, in 1846, of the taxes on imported wheat was a sign of the way of life which Britain had chosen. For some years after that date British agriculture flourished, by improving its methods; but the development of new lands overseas, and the steamship and railway which carried their produce, were too strong. Since about 1875 British agriculture has lagged behind other branches of production; the prices of produce and the wages of workers have been low, and there has been a steady movement to the towns.

The war of 1914-18, by hampering imports of food, promoted a revival in agriculture, but this ended as soon as trade resumed its normal course. A similar revival occurred during the war of

1939-45 and Britain now faces the problem of preventing another decline. This is the more important because her export industries have not their old place in the world's markets and are therefore less able to provide her with food; and scientific inquiry into the extent of under-feeding, and its effect on health, increase the concern for food production.

The Ministry has therefore taken on the responsibility for the general direction of agriculture. It guarantees in advance the prices of the principal agricultural products so as to give the farmer greater security. Through county committees it watches the progress of farming; it may give directions as to what crops are to be raised in particular areas and may stimulate the more urgently needed types of production by various forms of subsidy. The Committees are required to give technical advice to farmers and in extreme cases may dispossess a farmer who neglects his land.

It is to be hoped that these measures will make possible the payment of good wages; for until this is secured it will be difficult to keep sufficient labour in the industry. A national board, on which farmers, workers and the Ministry are represented, prescribes minimum wages, but the gap between agricultural and industrial wages is still great. Bad housing in the countryside, lack of water, transport and amenities are further discouragements to the worker and will require close attention from the Minister.

THE BOARD OF TRADE

The "Board" exists in law but not in fact; it is, officially, a Committee of the Privy Council and contains many members who take no part in the work, which is carried on by the President and the Parliamentary Secretary, and a Minister of State whose special concern is overseas trade.

Some of the Board's work is routine. If private enterprise is to flourish, the Government must protect the public from industrial and commercial fraud. For this purpose there are Acts stating how Joint Stock Companies are to be formed, and how their accounts must be published; to establish standard weights and measures, and see that they are used; to protect the rights of inventors by granting patents. The Board administers laws of this kind. It also gives positive help to trade and industry by providing business men with knowledge which no private person could collect for himself. It publishes statistics of prices, production, exports and imports, and information about raw materials and markets.

The situation after the 1939-45 war added greatly to the Board's responsibilities. During the war Britain had concentrated her

energies on war-time production to the neglect of export markets and many branches of home industry. The Board now conducts, in consultation with managers and workers, inquiries into the steps which must be taken to restore industrial efficiency. By a system of licensing the Board can influence the flow of goods as between the home and export markets. Whenever the scarcity of goods is such that Government action is necessary to secure fair distribution, the Board may take action: it may prescribe the form in which goods are to be made, in order to prevent waste of material: it may fix maximum prices, and arrange systems of rationing and priority to protect consumers who are most in need.

In general, then, the function of the Board is to promote efficiency in the production and justice in the distribution of those articles which are turned out by privately controlled industry. It is an essential, difficult and thankless task: the man to whom the Board has refused permission to make luxury articles, because the labour and material are required for necessities, feels a direct grievance; the ultimate consumers of the necessities have been helped by the Board, but without coming into direct contact with it, so that their gratitude will be, at the most, lukewarm. The Board must therefore not only aim at a high standard of efficiency, but secure, by effective publicity, the confidence of the public.

CONCLUSION

This survey of the economic Departments discloses a Britain whose economy is far removed from the private enterprise Capitalism of the 19th century. Over a considerable and increasing range of production the State exercises complete and direct control; in other fields it acts both as helper and controller to private industry. This development, apparent throughout the 20th century, has been quickened by the course of events since 1939; and although opinions differ as to the wisdom of Government intervention in production, the facts oblige any Government to have a consistent economic policy to which all the economic departments shall conform. Three main principles of action can be suggested. First, the temptation always to reach out a helping hand to those firms and industries which are faring worst must be resisted, or a premium will be placed on inefficiency; it must be made clear that the real objective is efficient production—that is, the production of the greatest amount of wealth from a given amount of labour. Second, the Government must see that negative action—*e.g.*, the prevention of fraud, the restriction of wasteful enterprise—is fully balanced by such positive measures as the granting of credits to socially desirable industries, and the pro-

vision of information: otherwise the general effect of its policy will be to irritate and discourage producers. Third, whenever action has to be taken which directly affects the ordinary consumer, there must be consultation with the public in advance; once decisions of this kind have been taken it will usually be unwise to alter them in order to pacify particular groups, and it is therefore essential to weigh the conflicting interests carefully beforehand. As the number of things controlled by the Government increases so must the channels for exchange of ideas between Government and people be perfected.

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CHAPTER VIII

THE SOCIAL ACTIVITIES OF GOVERNMENT

Need for Social Activities
Ministry of Labour
 Industrial Relations
 Employment
Ministry of Food
Ministry of Housing and Local Government
 Local Government Supervision
 Housing
 Planning
Ministry of Health
Ministry of Education
Ministry of Pensions and National Insurance
Conclusion

NEED FOR SOCIAL ACTIVITIES

Inequality of wealth and opportunity has been one of the chief facts of society in Great Britain, and indeed in most other countries. This inequality is a necessary part of private enterprise; the chance of becoming one of the wealthy is the spur by which such a system seeks to drive men to work, to save and to invent. Nor is there any doubt that in the nineteenth century the results of this incentive were remarkable; no less remarkable, however, were the evil consequences of inequality. In the early years of the century a limited number of people obtained great wealth and power, but the masses lived in poverty, ill-fed and insanitariously housed, and with the merest fragments of education. The talents of children born into such conditions were necessarily stunted, and the development of industry made it progressively harder for a man to rise from the station into which he was born. Hence it became difficult to argue that the great fortunes were the rewards of service, and the working class, assembled in towns, began to organise and to demand a better life. Fear, wisdom and humanity induced Governments to modify the rigours of Capitalism by the introduction of "Social Services" which now absorb a large part of the energies of Governments and have served as an example to foreign countries. These services cost a great deal and are sometimes represented as a burden on the country's industry: but there are several ways in which they increase production. By raising the standard of life of the poorest people they improve health and thus make the workers of the country more efficient; by providing better houses and sanitation they reduce the wastage of life and

resources through disease; through universal education they release for the service of the community a stream of talent which would otherwise be undiscovered. Even those measures, such as Old Age Pensions, which do not appear to be directly productive, have at least the advantage that they make the worker more willing to co-operate in a system of society which otherwise would not appear to have much justice in it for him. There is no need, however, to justify the social services solely on the ground that they increase the total of wealth; the well-being of a country should be measured, not simply by this total, but by the standard of life which the mass of citizens are able to enjoy; and it is certain that the social services have materially increased this standard.

The function of these services may be summarised as follows: to provide for those who, by reason of old age, sickness or unemployment, are unable to provide for themselves, to promote equality of opportunity, and to prevent the inequality of wealth from becoming so great as to endanger the whole social system. The work is performed by the Ministries of Labour, Food, Health, Education and National Insurance.

THE MINISTRY OF LABOUR

This Department lies on the border between economic and social activities. Its first object was economic; by preserving good relations between employers and employed, and by helping workers to find employment, it was to assist production. During the period of heavy unemployment between the wars the Ministry became increasingly occupied with the social duty of providing for those without work. The war of 1939-45 imposed the further task of administering the National Service Acts and balancing the needs of the Armed Forces against those of industry. It is probable that the Ministry will, in consequence, retain a responsibility for the efficient use of the labour-power of the nation.

Industrial Relations. The Ministry is responsible for the enforcement of the Factory Acts, which prescribe maximum hours for female and juvenile workers and minimum requirements for safety and health. In general, however, it is for employers and employed themselves to determine wages, hours and conditions by "collective bargaining"—i.e., agreements between employers' associations and Trade Unions, to cover all the workers in the industry. If a deadlock is reached and a strike or lock-out seems likely, a representative of the Ministry of Labour will intervene and try to bring about an agreement. Frequently the parties to the dispute will ask the Minister to help, or the collective agreement may provide that when a dispute cannot be settled by dis-

cussion it should be referred to him. When a claim is made for an increase or decrease in wages, both sides try to fortify their case with statistics of the cost of living or reports of conditions in similar industries abroad. These facts, along with many others, can be obtained from the Ministry of Labour Gazette.

In certain industries, where Trade Union organisation has been weak, the Ministry has power to set up Trade Boards. These are composed of people elected by workers and employers, and of some appointed by the Minister. They have power to fix minimum wages for their industries, and the Ministry can enforce these decisions.

Employment. All over the country are the Employment Exchanges maintained by the Ministry of Labour. Through them employers and workers are put in touch with each other, and, together with the Education Authorities, they try to find jobs for children leaving school. A worker may also apply to the Exchange for a course of training which will enable him to take up a new type of work. This service has grown since the end of the 1939-45 war and is especially concerned with men coming out of the Armed Forces. At present the facilities are limited and they need to be developed if mass unemployment is to be prevented. In so highly industrialised a country as Britain, some industries are always expanding and others shrinking as public demand changes and as new methods of production are introduced. If, therefore, it is difficult for men to change from one industry to another, large groups of workers and often whole districts may be afflicted with long-term unemployment.

There is reason to believe that Governments, by wise financial and industrial policy and by extension of training facilities, can promote "full employment." This does not mean that no one need ever be unemployed. A particular firm may close down, and, even if the industry as a whole is healthy, it may be some weeks before the employees find other posts. Here is but one of many causes which bring about, even at the best of times, a limited amount of short-term unemployment. This, however, is a problem which can properly be dealt with by an insurance scheme.

Unemployment Insurance was first introduced in 1911, and extended in 1920 and 1934. Workers, employers and the State contributed to a fund out of which benefit was paid for a fixed period to those unable to find work. The scheme, was, however, unaccompanied by any measures to prevent mass unemployment. The fund was in constant difficulty; the scheme became increasingly complicated and provocative of controversy, until the

outbreak of war in 1939 altered the whole situation. Insurance against unemployment has now been made part of the whole plan of National Insurance.

MINISTRY OF FOOD

The immediate cause of the creation of this Ministry was the war of 1939-45, and its main work has been the rationing of essential foods, the control of food prices, and the co-ordination of food supplies from home and foreign sources.

The scope of this Ministry's work naturally declined as the post-war food shortages were overcome. Food prices, however, are likely to be a difficult part of Great Britain's economy for some time to come, and there are the further questions of the scientific study of food values and the nutrition of children. Accordingly, although this Ministry no longer exists, parts of its former work are performed by the Ministry of Agriculture, Fisheries and Food.

MINISTRY OF HOUSING AND LOCAL GOVERNMENT

This department, known for a short time as the Ministry of Local Government and Planning, has absorbed the functions of the former Ministry of Town and Country Planning, and taken from the Ministry of Health the duties of housing and of local government supervision. It has thus become the most important of the social departments, and the chief link between the central government and the local authorities: while the Ministry of Health, which at the outbreak of the war was responsible for health, housing, local government and the administration of Health Insurance and Old Age Pensions, has become a lesser department concerned only with health. These changes illustrate the growth of the social activities of government and the usefulness of the Ministers of the Crown (Transfer of Functions) Act.

Local Government Supervision. It is convenient to make here a brief mention of the Ministry's work: its full importance will only become apparent from later chapters on local government. Anyone who surveys the progress of a number of local authorities will discover that they possess considerable freedom, and that they differ widely in the spirit in which they approach their work. The task of the Ministry is to prevent local authorities from ignoring the law of the land or making it impossible for the Central Government to pursue its own policy, and to provide such uniformity as is necessary to prevent confusion. The chief instrument for this purpose is that of finance. Local authorities have to value the

properties in their areas in order to see what the occupiers should pay in rates. The Minister appoints a Central Valuation Committee to which the local authorities have to report each year. Thus informed, the Minister is able to make recommendations to the authorities, or to prepare alterations in the law so that serious differences in the method of valuing may be avoided. The Minister also appoints Auditors to see that the accounts of local authorities are properly kept and that money is not spent on projects beyond their legal powers. When local authorities borrow money, they go to the Ministry of Local Government, or sometimes to other Government Departments, for approval of the terms of the loan. The Ministry has also to make the elaborate calculations necessary to find out how large a grant of money each local authority is entitled to receive from the Central Government.

Housing For many years the public have demanded better and healthier accommodation, so that the need for building has been great and persistent. The war of 1914-18, naturally held up building programmes and there followed an acute housing shortage, only partially alleviated by the provision of some 3,000,000 homes between the two wars. The recent war, attended as it was by widespread destruction, presents the country with a problem only to be solved by years of effort.

The private builder can meet part of the need: but large numbers of people cannot afford rents sufficient to attract private enterprise. The bulk of the work must therefore be done by local authorities with the aid of funds provided partly from local rates and partly by subsidy from the Central Government. The Ministry has to administer the granting of these subsidies and at the same time to ensure that local authorities erect houses of proper quality and at reasonable cost. When these authorities exercise their power to acquire land or to requisition property the Ministry may be frequently called up to adjudicate between the authority and the private persons affected.

The amount of private and local authority building will be limited by the availability of labour and materials. The Minister must therefore keep in close touch with his colleagues at the Ministries of Supply, Works and Labour. The smooth co-ordination of these departments is perhaps the most difficult part of the whole housing problem: and the Minister's task is the harder because the public require him not only to make plans which will ensure a steady flow of houses for a long period, but to produce appreciable results in the near future.

Planning The object of this section of the Ministry's work is to regulate the use of land and the type of buildings erected and

works executed on it. The absence of planning in the past has led to the haphazard growth of towns without regard to health, transport or defence in time of war, and to the desecration of natural beauty by industry, advertisement, or inappropriate building. The main work of planning is carried out by local authorities subject to Ministerial guidance and approval. Large areas of the countryside are entrusted to the National Parks Commission, which is responsible to the Minister.

MINISTRY OF HEALTH

The chief task of this department is the administration of the National Health Service, created by the National Health Service Act 1946, which came into operation in 1948. Before that date the bulk of the employed population relied for medical treatment on a contributory insurance scheme instituted in 1912. Other people, including dependants of insured persons, had to pay for medical attention. Hospitals were provided both by local authorities and by the voluntary efforts of charitable people; local authorities were responsible for various health services, including district nursing and the treatment of tuberculosis.

The National Health Service, financed almost entirely by the central government, is independent of the National Insurance Scheme and available to everyone in the country. It provides :—

1. A General Practitioner Service giving medical, dental and ophthalmic treatment. This Service is organised by local Executive Councils, half of whose members are appointed by the local doctors, dentists and pharmacists, one-third by the local authorities and one-sixth by the Minister. Members of the public choose their "family doctor" from the list of those employed by the Executive Council in their area.

2. A Hospital and Specialist Service, for the administration of which Regional Hospital Boards are appointed by the Minister after consultation with local authorities, universities and the medical profession. These Boards appoint management committees for the control of each hospital or small group of hospitals, and there is here great scope for voluntary work by public-spirited people. The "teaching hospitals", which provide not only for the care of the sick but for the training of medical students and the conduct of research, have their own Governors directly responsible to the Minister.

3. Local Health Services, provided by Counties and County Boroughs. These services include home nursing and child welfare, and should, as time and resources permit, extend to the creation

of Health Centres. Such a Centre can perform many functions. It can offer consulting rooms and other facilities for the General Practitioners; accommodate a maternity and child welfare clinic; and promote an informative and educational service, aimed at preventing rather than curing disease. It is of great importance that the public should understand the value of "preventive medicine," and recognise the Service as a *Health Service* rather than as an arrangement for dealing with disease.

There are private doctors and private nursing homes whose services may be had on payment, but nine-tenths of the population use the National Health Service. Much controversy attended its origin, and the reader will notice that it has involved the creation of a special kind of local authority, independent of the main structure of local government. It is possible that, in time, County and Borough Councils will be enabled to play a larger part in the administration of the Service.

The Minister of Health has also to supervise the work done by local authorities for sanitation, cleanliness of food and public hygiene. The Board of Control, which is responsible for lunatics and mental defectives, is linked both with the Ministry of Health and—in view of the legal problems involved—with the Lord Chancellor's department.

THE MINISTRY OF EDUCATION

In 1899 there was established a Board of Education which, like the Board of Trade, was an offshoot of the Privy Council. The Education Act of 1944 re-organised the department as the Ministry of Education and at the same time made large alterations and extensions of public education: it is, indeed, on this Act that our present educational system is based. It will be convenient to give a fuller description of this system in a later chapter dealing with local authorities, since the actual running of schools is in their hands; but something may be said here of the controlling and directing work of the Ministry.

The Minister's powers do not extend to Scotland,¹ and Welsh education is placed under a separate department of the Ministry. The local authorities must submit to the Minister the schemes for educational development which they have prepared, for some years ahead, in their areas. These must provide primary education for all children from 5 to 11 years of age, and secondary education, of various types, up to the age of 15; also for higher and adult education, and part-time education for young people who have recently left school.

¹ See Ch. VI. The Scottish Office.

Continuous control is exercised through Her Majesty's Inspectors of Schools, whose reports not only inform the Ministry whether local authorities are performing their duties, but also provide a body of information on which future policy can be based. A Central Advisory Council for England, and another for Wales, are appointed by the Minister: they keep the theory and practice of education under constant review and make recommendations to the Minister. Circulars, memoranda, and many other documents, notably the Handbook of Suggestions for Teachers, issue from the Ministry and disseminate advice, instructions and information to the local authorities.

The scales of salaries and the administration of pensions for teachers are controlled by the Ministry in consultation with the Burnham Committees and the various teachers' associations. The training of teachers in the Training Colleges and Universities is also supervised by the Ministry. The shortage of teachers after the 1939-45 war obliged the Ministry to bring into being a number of Emergency Training Colleges.

Universities are in no sense under the control of the Ministry of Education, and such help as they receive from public funds is granted directly by the Treasury. Nevertheless, they are in frequent consultation with the Ministry, and joint action provides for State Scholarships and for adult education outside the walls of the Universities themselves.

As is well known, there are some schools outside the national system of education, to which a small proportion of the population send their children, usually on payment of fees. Such are the Preparatory Schools, run for profit: the "Public Schools" for older children; certain grammar schools which have remained independent of the local authority, and some experimental schools. To-day the Ministry endeavours to link these with the main educational system by a variety of methods. First, these schools, like all others, are open to inspection by the Ministry; secondly, the grammar schools independent of the local authority receive a grant from the Ministry on condition that about one quarter of their pupils are received free of charge from the ordinary primary schools; thirdly, a similar arrangement is proposed, but has not yet been made, for the Public Schools; finally, an extension of State Scholarships may bring about a more thorough admixture in the Universities of pupils from the Public Schools and from the schools attended by the great majority of children. Nevertheless, the Public Schools remain as a special type of education, reserved, in the main, for the wealthy, and conferring a certain social distinction. The view is frequently expressed that this special feature in our

education is undemocratic, and that a good opportunity of removing it was lost when the Education Act of 1944 was planned.

For some years to come, the Ministry will have to struggle with difficulties and shortages left by the war. The 1944 Act requires secondary education for all; but much has to be done before the old "senior elementary" schools, now re-named "modern secondary" will approach, in buildings, equipment and general efficiency, the standards of a good secondary school. Many more teachers are required, but the provision of training colleges is no easy matter. If the Act is to be a success, the claims of education will have to be championed most vigorously in the Cabinet by the Minister.

MINISTRY OF PENSIONS AND NATIONAL INSURANCE

There is now general agreement that we all have a duty to help to provide for those of our fellows who, because of age, sickness, unemployment or other good reason, cannot earn a living. At first this principle was only grudgingly accepted and twentieth century legislation contains a series of Acts which make successive concessions to the idea of social security. In 1908 small pensions were provided for persons over 70 who had not sufficient savings on which to live. In 1911 the National Health Insurance Act required employers, employed and the State to contribute to a fund out of which the needs of the sick could be met. This valuable idea of contributory insurance was later extended to deal with old age, widowhood and unemployment. By 1939 most of the population were included in state-organised contributory insurance schemes under the control of the Ministry of Health. To a very large extent these schemes were administered by Approved Societies, often connected with the Trade Union or religious denomination of the insured person. Medical benefit, *i.e.*, the services of doctors and the supply of medicines, was administered by Local Insurance Committees composed of representatives of the Approved Societies, the local doctors, the Ministry of Health and the local authorities. These Committees prepared lists of "panel" doctors and arranged for their payment.

But, although a great structure of social security had thus been erected, there were many defects. The Ministry of Health was overburdened: the different schemes to cover the various chances of life—ill health, old age, unemployment—led to confusion; considerable numbers of people were not covered by any scheme; the provision for the aged was inadequate; further, although a large

family was one of the commonest causes of real poverty, there was no system of allowances for children. In 1940, Mr. Arthur Greenwood, then Minister without portfolio, set up a committee under Sir William Beveridge to survey the whole topic of social security and make recommendations. Hence came the famous Beveridge Report, the recommendations of which have, with a number of additions and alterations, been passed into law. A Ministry of National Insurance was established, relieving the Ministries of Health and Labour of the insurance schemes previously administered by them, and prepared to fashion these schemes into an integrated system. The new Ministry operates the Family Allowances Act, passed in 1944 and coming into force in 1946, and the Industrial Injuries and National Insurance Acts, passed in 1946.

Under the Family Allowances Act a weekly payment is made to every family for each child of school age, except the eldest. In conjunction with this should be noticed the activity of the Ministry of Education in providing cheap meals and cheap milk to all school children.

The National Insurance Act requires nearly everyone of working age to contribute to a single insurance scheme and so entitle themselves to a number of benefits. Married women are qualified for benefit by their husbands' contributions, but may, if they wish, establish a claim to further benefits by contributing themselves. The small number of persons who have less than £2 a week are free to join the scheme or not, as they wish.

The benefits generally take the form of weekly payments in time of sickness and unemployment, and a retiring pension for men over 65 and women over 60. A person who reaches retiring age but decides to continue in regular work will not immediately draw the old age pension, but on retirement, later, will draw pension at an increased rate. Women are entitled to a grant on the birth of a child, and those who have been earning a wage and whose work is interrupted by child-bearing, receive an allowance for 13 weeks to compensate for loss of earnings. Widows receive a 13 weeks allowance on widowhood, followed by a permanent pension if they are over 50, unable to work, or have children to look after. In calculating rates of benefit, provision is made for the eldest child of a family, the others being already provided for by the Family Allowances Act. The scheme is rounded off by a death grant to cover funeral and other expenses.

The Act divides contributors into three classes :—

- (1) Employed workers, who are eligible for all benefits.

- (2) Workers such as shopkeepers and owners of businesses, who are not employees. This group are not eligible for unemployment benefit.
- (3) Persons who do not work: these receive neither unemployment nor sickness benefit, since their income would not be interrupted should they fall ill.

The money needed for the scheme is provided by the contributions of the insured persons, which vary according to age and sex, and to which of the three classes he or she belongs; for most people the contributions will be about 6s. per week. Similar contributions are paid by employers in respect of each of their employees, and a further sum of about £120,000,000 is provided by the State from taxation. This sum will increase as time goes by, mainly because the number of people receiving old age pensions is growing larger. The increasing proportion of old people in the population has been an anxiety for some years. During the war, however, there has been an increase in the birth rate, and it may be that Family Allowances, combined with better housing and education, will encourage parents to have more children, and so prevent us from becoming an unduly elderly nation: but at present there can be no certainty on this point.

The new insurance scheme came into operation gradually, replacing the old. It is administered directly by the Ministry, which has local offices in every neighbourhood. Although the disappearance of the old Approved and Friendly Societies caused regret, the new Ministry has won a reputation for competence and sympathy. In 1953 the small Ministry of Pensions, which dealt with those disabled in war, was abolished, and its name and duties were absorbed by the Ministry of Pensions and National Insurance.

The Industrial Injuries Act provides a scheme on similar lines to deal with accidents at work and replaces earlier laws on workmen's compensation, which were incomplete and over-complicated.

There remain the needs of people who are not included in the National Insurance Act, and those who, for any reason, have not enough for a decent living even though they are earning wages or receiving pensions. Under the National Assistance Act of 1948 a National Assistance Board provides for persons in need in accordance with regulations framed by the Minister and approved by Parliament, while the local authorities are required to provide homes for people in need of care and attention and to organise, together with voluntary bodies, the welfare services for the blind, deaf, dumb and crippled.

CONCLUSION

If the reader reviews the activities of all the Departments described in this chapter, he will see that together they form a comprehensive system of social security and welfare. In particular, he will notice that great advances have been made during and after the 1939-45 war and that the full significance of these changes has yet to be appreciated. Before the war there was great inequality between the standards of life of different classes. The war, with its demands on our productive power, reduced the standards of life of all classes but narrowed the gap between rich and poor. The new social legislation ensures that that gap will never again reach its former dimensions; as Britain turns back to peace time production of goods and services, the new wealth will be more equally and more justly shared. The vital question is therefore, how great will that wealth be? For example, the National Insurance Act may provide an old age pension of 50s. instead of 10s. : but the real value of that pension depends on the amount of goods which are produced. The work of Governments in framing social legislation must be supplemented by a determined effort from individuals to produce all they can in their daily work.

BOOKS :

HALL. *The Social Services of Modern England.*

ROWNTREE AND LAVERS. *Poverty and the Welfare State.*

PART TWO

MAKING THE LAW: PARLIAMENT AND PEOPLE

CHAPTER IX

THE TWO HOUSES OF PARLIAMENT

Development of Parliament
Relations Between the Two Houses
The House of Lords
One House or Two ?
Reform
Conclusion

DEVELOPMENT OF PARLIAMENT

The history of Parliament goes back to the 13th century. Before that time the only rival to the King's power had been that of the Great Council, an assembly of the chief men of the Realm, some of whom were Lords Spiritual—Archbishops and Bishops—and some lay, or Temporal Lords. Nearly all of them were "tenants in chief"; that is to say, they held land, in accordance with the feudal system, directly from the King. Essentially, the Council was the organ of a class of great land owners. By the early 13th century there had developed in England two classes, possessed of considerable wealth but unrepresented in the Council—the smaller landowners, or "knights of the shire" and the burgesses of towns. The Crown, requiring money for wars in France, considered the possibility of summoning representatives of these classes to the Council so that they might make the necessary grants. In the reign of Henry III there was a rising of the barons and power passed for a time to their leader, Earl Simon de Montfort. He, in 1265, summoned a Parliament which was the Great Council *plus* two knights from each shire and two burgesses from boroughs which had supported the barons. De Montfort was later overthrown, but the next King, Edward I, summoned in 1295 a Model Parliament composed in the same way as that of 1265. During the reign of Edward II, Parliament began to sit in two Houses; the Lords Spiritual and Temporal, who had been the Great Council, formed the House of Lords, and the new elements, the knights and burgesses, became the House of Commons. Membership of the new House was considered not so much a privilege as an **expensive** duty; and the shires and

boroughs which paid part of their Members' expenses and knew that the chief work of Parliament would be to grant the King money, were often reluctant to carry out the election. But Parliament was, as its name showed, a place for talk; complaints of mis-government could be voiced there and the discontented could find out how far their feelings were shared by those from other parts of the kingdom. The principle that the King must attend to the Commons' complaints before getting money from them, was gradually admitted, though not always enforced.

When, in 1399, Henry IV took the throne from his cousin Richard II, he sought to strengthen his position by getting the approval of Parliament. He was thus obliged to show respect to the Commons, and they secured the right of examining how the money which they granted was spent. The great nobles, however, were not prepared to let power slip from their hands, and began to use their armed retainers to interfere with the election of the Commons. At the close of the 15th century the Wars of the Roses had weakened the nobility and given England a stronger Central Government than ever before. The Tudor monarchs of the 16th century found it wise to preserve Parliament as a means of keeping in touch with the classes on whom their power was based. Parliament, thus trained for Government, rivalled the Crown; the two forces struggled for supremacy during the 17th century, by the end of which the Sovereignty of Parliament was established beyond doubt.

Thus far, however, it was only a Parliament for England and Wales. Scotland and Ireland, though under the same Crown as England, possessed Parliaments of their own, the Irish entirely subject to that of England, the Scottish an independent body, though somewhat overshadowed by the Kirk Assembly, which was the real voice of Scotland. In 1707 the English and Scottish Parliaments became a united Parliament of Great Britain, and in 1801 the British and Irish Parliaments were united. Heavy bribery of Scottish and Irish M.P.s was necessary to secure the passage of these Acts. The willingness of the English to treat the Scots as equal partners has preserved the Parliamentary union of Great Britain; but the neglect and mis-government of Ireland led to a vigorous Home Rule movement, and after many years of conflict and tragedy the Irish Free State¹ was established as a Dominion with a Parliament of its own, in 1923. The six counties of Northern Ireland, not included in the Free State, have also a separate Parliament, but it is subject to that at Westminster.

The Parliament of the United Kingdom in 1801 was supreme,

¹ Now known as The Republic of Ireland. See Ch. XXII.

but it by no means represented the people. Boroughs which had, centuries before, been given the right of sending two Members to Parliament, continued to do so even if they were wellnigh depopulated and the Members no more than the nominees of a landlord; large and growing towns, the products of the Industrial Revolution; were unrepresented; the fact that there was no secret ballot opened the door to bribery and intimidation. The qualifications for a voter were various and confusing and the result was a Parliament in which the trading and manufacturing middle-class was under-represented and the working class not represented at all. The unfitness of such an assembly to govern 19th century Britain nearly led to revolution, but a series of Reform Acts improved the position. The Great Reform Act of 1832 raised the number of voters from 500,000 to 1,000,000, benefiting chiefly the upper middle class; Acts of 1867 and 1884 gave the vote to some of the town and countryside workers respectively. The Representation of the People Act, 1918, gave the vote to nearly all men over 21, and to the great majority of women over 30. The process was completed in 1928 when women were given the vote on the same terms as men. Thus has Parliament grown from an enlarged feudal assembly into a democratic institution representing 35,000,000 adults. Developed in the 14th century, uncertain of its existence in the 15th, tutored in the 16th, struggling for mastery in the 17th, supreme in the 18th, democratised in the 19th, it has reflected at every stage the growth and conflict of classes. Just as recognition of its Sovereignty is essential to an understanding of the Constitution, so an acquaintance with its development will explain the history of England.

RELATIONS BETWEEN THE TWO HOUSES

From the time when the two Houses began to sit apart they had, in law, equal powers. At an early date, however, it was recognised that the Commons should have chief power over finance, and from this it followed that they became the more important House. A serious conflict between the Houses occurred over the 1832 Reform Bill, and later in the century Mr. Gladstone's Governments had difficulties with the Lords. The legal equality of the two continued until 1909, when the Lords, standing on their legal right, rejected certain taxes which Mr. Lloyd George, as Chancellor of the Exchequer in a Liberal Government, had proposed. At a General Election in January 1910 the Government were victorious; the Lords accepted the taxes, but the Government, determined to prevent such difficulties in future, introduced a Bill to limit the Lords' powers. Another Election, held in December 1910, and a

threat to "swamp" the Lords¹ were necessary before this Bill was passed, to become the Parliament Act, 1911. Its provisions were as follows :—

1. Any Bill dealing with taxes, borrowing of money, or similar matters, and certified by the Speaker of the House of Commons as a "Money Bill" can become law one month after the Commons have passed it, whatever the Lords may have done.

2. Any other Public² Bill, except one whose object is to extend the life of Parliament beyond five years, which is passed by the Commons and rejected by the Lords, could be passed again by the Commons in the next Session; if it were rejected a second time, and then passed by the Commons a third time in yet another Session, it became law despite the Lords' opposition. The whole process had to take at least two years.

3. The maximum lifetime of a Parliament is fixed at five years instead of the seven which had been required by law since 1716.

This Act made the Commons supreme, but left much power to the Lords. They could not bring the Government down by the simple process of refusing money, nor could they delay anything for more than two years. But many Acts lose much of their usefulness if they are thus delayed, and a Government which had to deal with a sudden emergency, such as a financial panic, or a dangerous turn in international affairs, would be in great difficulty if the Lords were determined to oppose it. The Lords could also amend a Bill and so compel the Commons either to accept amendments which they dislike or sacrifice the whole Bill for two years. The Labour Government of 1929-31 was thus obliged to accept amendments in many of its Acts, particularly the Coal Mines Act, 1930. The Labour Government of 1945-50, faced with opposition over the nationalisation of steel, introduced a Bill to reduce the power of the Lords. The Bill was itself opposed by the Lords, and only became law by the procedure laid down in the Act of 1911. It is now, therefore, the Parliament Act 1949 : it alters the 1911 Act by requiring a disputed Bill to be passed by the Commons in two, instead of three, successive Sessions, and by reducing the delay from two years to one.

THE HOUSE OF LORDS

The Lords of Parliament—*i.e.*, persons entitled to sit in the House of Lords—can be classified as follows :—(1) The Lords Spiritual :—the two Archbishops, the Bishops of London, Winchester and Durham, and twenty-one other Bishops in order

¹ See Ch. II.

² For explanation of this term see Ch. X.

of seniority. These hold their seats only as long as they are Bishops, and the right to sit is not hereditary. (2) The Lords Temporal. (a) Princes of the Royal Blood; these are few in number and take no part in the work of the House. (b) English Peers and Peers of the United Kingdom, totalling about 700. Their right to sit is hereditary, but, if, in the absence of male heirs, a woman succeeds to a Peerage, she is not entitled to sit. Peers who are under 21, or mentally incapable, are also excluded. The Peers are divided into Dukes, Marquesses, Earls, Viscounts and Barons, in order of precedence, but this is only a ceremonial distinction. When a new Peer takes his seat, he is usually led up the floor of the House by two Peers of the same rank; but all, irrespective of rank, can take an equal share in the work. (c) Sixteen Representative Peers, elected at the beginning of each Parliament by the holders of Scottish Peerages, *i.e.*, those created for the Kingdom of Scotland alone, before the 1707 Act of Union. (d) Five (formerly 28) Representative Peers who have been elected for life by the holders of Irish Peerages. Since most of Ireland is now outside the United Kingdom, there will be no further elections to fill vacancies caused by death, so that this group of Peers will in time vanish. (e) Not more than nine Lords of Appeal in Ordinary, usually called Law Lords. These are distinguished lawyers who have been made Barons for life—the only example of non-hereditary Peerage—so that they may sit in the House of Lords and enable it to perform its duties as a law court.

The earliest Peers were all great landowners. Today the House contains many wealthy landlords and business men, and a number of men who have distinguished themselves in various branches of public service. Those who have previously been Ministers and Members of the Commons play a large part in the work. Most of the Lords do not attend at all, and often there are less than fifty present. The sittings of the House are neither as frequent nor as long as those of the Commons. The Lord Chancellor presides, sitting on the Woolsack, but he does not enjoy the authority of the Speaker in the Commons: the Lords do not address their speeches to him, but to "My Lords", and the small size of the audience makes strict rules of debate unnecessary.

It has become difficult to find suitable people willing both to accept hereditary peerages and to do the work of the Lords. Provision of an expenses allowance of £3 3s. 0d. for each day's attendance has mitigated but not removed the difficulty. In a family keenly interested in politics a father might well decline an hereditary peerage because one day it would debar his eldest son from membership of the Commons. Partly for this reason, and partly

in the hope of making the House less anachronistic and more likely to command respect, an Act was passed in 1958 empowering the Queen to create Life Peers. Women as well as men may receive this honour: this is, indeed, the only way in which a woman can enter the Lords. The House will still be predominantly hereditary, though the Life Peers will probably be among its most active members. If at some future date a more thorough reform is attempted, two questions arise. Is there to be one House or two? If two, what is to be the nature of the reformed Upper House?

ONE HOUSE OR TWO?

The arguments for a "bi-cameral" system of Government can be stated thus :—(1) The Second Chamber can revise the Bills passed by the First, to see that their language is clear and that they do not contain unperceived dangers. To do such work properly, the Second Chamber would have to be a small body of people with legal knowledge and political experience, and the majority of its members should hold the same political opinions as the majority in the First Chamber; otherwise they would not try to improve the drafting of Bills, but to defeat their purpose. The present House of Lords is therefore unsuitable.

(2) A Second Chamber whose members do not have to be elected can deal with problems which cut across party divisions and which ordinary politicians fear to touch, lest they should lose votes. The 1937 Marriage Act was an outstanding example. Every Member of the Commons had to say to himself "There are many voters in my constituency who always vote against me because they sympathise with another party; if I favour a change in the marriage laws I shall offend some of my regular supporters and so add to the hostile vote; nor can I be sure that those who want the change will come over to my side if their usual party allegiance is elsewhere. I may be told that I ought to vote for what I think right, and take the consequences; but I do not think it right to risk losing a seat to the opposing party, whose principles I believe to be wrong and dangerous." This did not mean, of course, that the Commons were tongue-tied on the Marriage Bill; but they showed excessive caution. In the Lords a debate of high quality was held, to which men with legal and medical experience made valuable contributions. The Bill was altered so that it probably came nearer to the wishes of the people; and, with the trail thus blazed, the Commons were willing to follow, and accepted the Lords' amendments. A reasonable case may be made, therefore, for a Second Chamber

composed entirely of persons chosen for their experience, the hereditary principle being abandoned. Yet freedom from anxiety about the opinions of voters will not always lead to wise and courageous action; the Chamber might be tempted to act simply in its own interest, because it would not have to consider that of others.

(3) The Second Chamber can act as a check on the First, if the latter disregards the wishes of the people. When a year or more has passed since the First Chamber was elected, it may no longer be truly representative; or the majority party, having been elected on one issue, may snatch the opportunity to make great changes about which the people have not been consulted. Cannot the Second Chamber be given power to prevent such action, at least until another Election has been held? This was clearly the purpose of the Parliament Act 1911 when the two years' delaying power and the limitation of the life of Parliament to five years, are considered together. A Government with a majority in the Commons can, at the worst, get through those measures which it introduces in the first three years; after that the Lords can postpone anything they dislike till after the next election. But the ideal of a Second Chamber which will use its checking power solely to keep the First Chamber in line with the popular will, is not realised in the House of Lords. This was recognised in the Parliament Act; the Preamble states that "it is intended to substitute for the House of Lords as it at present exists a Second Chamber constituted on a popular instead of a hereditary basis": but the intention has never been carried out. How could such a Chamber be made? If all its members are to be elected on the same plan as those of the First Chamber, its views will be the same and there will be no check. Could they be elected on a different plan? Various proposals have been made. The Second Chamber might be elected on a "functional" basis; that is to say, the Trade Unions, the learned professions, and other bodies of citizens grouped according to the work they do, might elect representatives from their own number. Would this give a better expression to the people's will? If so, why not simply one Chamber elected on this plan? The right to vote for the Second Chamber might be limited to those, say, over 30; or to those who had attained a certain standard of education. Then the Second Chamber being less representative than the First, could hardly claim to act as a check.

It may further be questioned whether there is any need to impose a check on the First Chamber. The chief weakness of democratic Governments to-day is not that they take action too rapidly, but that they do not take it rapidly enough. If democratically elected assemblies think of legislating against the popular will, there is

always one powerful check—the thought of what will happen at the next election. No doubt, if the House of Lords were abolished the Commons could, in law, prolong their own life indefinitely and become a dictatorial Government. This, as has already been shown, would be unconstitutional; should a majority party intend to do any such thing it would not be deterred by the legal obstacle of a Second Chamber; it would no longer be thinking of legality and votes but of military strength and a *coup d'état*.

These traditional arguments for a Second Chamber lack force because they ignore realities. They suppose the State to be a collection of people all desirous of discovering the best scientific principles of Government. In fact, there is, within States, conflict between some advocating one change in the order of society, some another, and some no change at all. In a democratic State the conflict is resolved by periodic appeals to the will of the people. The effect of Second Chambers, in the real world, is to make certain kinds of change more difficult. They have been created or preserved in order to protect particular interests, not because political philosophers demonstrated the superiority of bi-cameral Government. The special interests of the House of Lords have been examined; the Senate in France gave special weight to the opinions of the rural districts. When the First Chamber itself favours the protected interest, the Second Chamber is its echo; when this does not happen, Government is hampered by conflict between the Chambers.

The problem takes a special form in Federal States where the Second Chamber usually has the task of preserving the rights of the various members of the Federation. The Congress of the U.S.A. is composed of Two Houses. To the House of Representatives each State in the Union sends a number of Congressmen varying with its population; but to the Senate each State, large or small, sends two Senators. Friction between the two Houses is not uncommon, but this is only an example of the problems of Federalism. The separate States were not willing to fuse into a single unitary State; nor was it to their advantage to remain completely independent. Federation, despite its inherent difficulties, was the only way in which a great nation could be created. Switzerland, which is a Federation of Cantons, some of which have joined in comparatively recent times, also uses bi-cameral Government as an instrument of Federalism. A more recent Constitution, that of the U.S.S.R., likewise provides for two Chambers, in view of the variety of languages and ways of life in Soviet territory; the Council of Nationalities, like the United States Senate, gives representation

to the smaller Republics and Provinces, out of proportion to their population.

REFORM

For Great Britain, a practical problem remains. About one-third of the Bills which come before Parliament are started in the Lords¹; so the mere abolition of that House would thrust more work on the already over-burdened Commons. Further, the argument for a revising Chamber, to see that Bills are well drafted, has not been fully answered. A small Second Chamber containing men appointed for their experience and competence, has been suggested. Alternatively, the members of the Second Chamber could be elected by the Commons, to do the work of revision and start those Bills which are not party measures. The Commons might select some of their own Members, and add to them persons fitted for the work but less fitted to fight elections. The Second Chamber would then be of moderate size and of the same political complexion as the Commons; all its members would be active and it would be to the interest of the parties to see that they were competent. The two Chambers would not be rival authorities but partners, sharing the work of legislation in accordance with the principle of division of labour.

The first two years of Labour Government, following the second world war, provided a new setting for the problem. The output of legislation by the Commons was large and much of it was passed with but limited time for discussion. While refraining from major conflict with the Government, the House of Lords pressed—often successfully—for considerable amendment of detail. Their action in this respect may well be quoted in support of the view that a Second Chamber is desirable as a revising body to save us from the inconveniences which result from ill-drafted legislation. But if the experience of this time strengthened the case for Second Chambers in general, it also emphasised the limitations of the House of Lords in particular. A hereditary assembly in which the Upper classes predominate cannot easily claim to represent the will of the people as against a Government with an elected majority. In 1947, therefore, the Government introduced legislation to reduce the delaying power of the Lords from two years to one. The Bill to this effect passed the Commons at the end of 1947 and, as has been mentioned, became law under the 1911 Parliament Act by the end of 1949, even in the face of opposition from the Lords. Not only did this measure alter the balance of power between the two Houses; it also enabled the Labour Government to introduce con-

¹ See Ch. X.

troversial Bills in 1948 and secure their passage into law before another General Election was due. The Conservative Opposition held that this attack on the Lords was ill-conceived. What was wanted, they argued, was not a reduction in the power of the Upper House, but a reform of its composition, and, as has been said, the experience of the previous two years gave support to this view. It was, of course, open to the Government to reply that if Conservatives believed in reform of the Lords they had had ample opportunity in the past to effect it, and that the strenuous conditions of the post-war world justified speedy legislation; the great constitutional step of reforming the Upper House could wait for some more leisured time.

CONCLUSION

This, then, is the net effect of the House of Lords on the British Constitution.¹ It slows down the process of legislation; it gives the landed aristocracy and the wealthy influence out of proportion to their numbers; it occasionally produces discussions and amendments in which the special talents of experienced men have good effect. A Government which has only a small majority in the Commons and lacks solid support in the country cannot hope to challenge the Lords with success. For all this, the Lords are not an invincible barrier to democracy. If the people are determined on a policy and give their vote and continued support to a Government which will carry it out, they will prevail. So the frequent use of the word "Parliament" when what is meant is the House of Commons, is natural, though technically incorrect; for in the last resort power rests with the Commons, and it is through them that the people control the Legislature.

BOOKS :

*MUIR. *How Britain is Governed*.

*ANSON. *Law and Custom of the Constitution*, Vol. I. Parliament.

LEES-SMITH. *Second Chambers in Theory and Practice*.

¹ The work of the House of Lords as a law court, being entirely distinct from its work as part of the Legislature, is reserved for consideration in Ch. XV.

CHAPTER X

THE WORK OF PARLIAMENT

Calendar and Time-Table
Debates and Votes
The Building
From Bills to Acts
Efficiency

FUNCTIONS

The House of Commons, as the most important part of Parliament, has four functions. First, to make the law; second, to watch and criticise the Government; third, to hold debates which will focus attention on politics and make clear to the people what are the questions which they will have to decide. The fourth, the control of the raising and spending of money, will need to be treated separately; the object of this chapter is to state how far the methods of work allow the first three functions to be satisfactorily performed.

CALENDAR AND TIME-TABLE

When, after a General Election, a new House of Commons assembles, its first task is to elect a Speaker. This official was originally the man who "spoke" to the King in Parliament about the wishes and doings of the Commons, and was regarded by them, with some suspicion, as a "King's man." To-day his election has to be approved by the monarch, but this is only a formality. He has become the champion of the Commons' privileges and his chief duty is to preside at their debates. Although he is usually, until his election, a member of one of the parties, he must sever his party connection and act impartially, and he should be a man in whose fairness all parties can have confidence. The majority party could elect whom they please, but it is understood that they will choose someone who is also acceptable to the minority. The modern practice is to re-elect the same person as Speaker in successive Parliaments until he retires, when he is given a pension of £4,000 a year, and is created a Peer if he so desires.

If the Speaker's powers of controlling debate in the Commons and his power, under the Parliament Act, to certify Money Bills, are considered together, the importance and prestige of his office will be recognised.

The Speaker once elected, all Members take the Oath of Allegiance to the Crown, and sign the Roll; not until this is done

are they fully M.P.s. In the last century fierce objection was raised to the taking of the Oath, which contains the name of God, by an avowed atheist, Charles Bradlaugh, one of the Members for Northampton. The Commons declared his election to be void; the people of Northampton replied by re-electing him, and the matter was solved by allowing Members, if they wished, to make an Affirmation instead of taking the Oath.

The lifetime of Parliament is divided into Sessions, each of which usually lasts a year, beginning in November. The Session opens with the Queen's speech, which is read in the House of Lords, either by the Queen or the Lord Chancellor on behalf of Lords Commissioners given authority by the Queen. An official called Black Rod goes to summon the Commons to hear it; seeing him approach the attendants close the doors; Black Rod knocks and asks for permission to enter, which the Speaker grants. This formality is a reminder that neither the Queen nor her messengers can enter the Commons' House without their permission; it would prevent any attempt to imitate Charles I's entry into the House with an armed force seeking to arrest five Members. The Queen's Speech is the work of her Ministers and contains a statement of the work they propose for the coming Session. It is addressed to "My Lords and Members of the House of Commons," except for a paragraph addressed to the Commons alone, stating "Estimates for the public services will be laid before you"; thus the sole authority of the Commons over money is recognised. The Commons then return to their own House, and an Address, expressing thanks to the Queen for the Speech, is debated. Members of the Opposition try to add to this Address expressions of regret that certain items find no place in the Speech, or that the Government has not the confidence of the House. After the Election of 1923 the Conservative Government found that its supporters were the largest party in the House, but had not a clear majority. The Labour Opposition moved an amendment in the Debate on the Address, to the effect that the Government lacked the confidence of the Commons; the Liberal Party, by supporting this amendment, brought about the defeat and resignation of the Government.

So far from five to eight days will have been used; no law-making has been done but the time has not been wasted. The Debate on the Address has given the public an idea of what the new Parliament is like, and what subjects it thinks important. The opening formalities seem no more than historical survivals; but if at any future time the liberties of the Commons should be in danger, these formalities would provide the occasion for protest and action. The House continues its sittings till it adjourns for the Christmas

Recess; re-assembles in January and continues, with similar adjournments at Easter and Whitsuntide, till July, when the Summer Recess begins. This lasts till October, when the House re-assembles for a few days before the Session is brought to an end by the Queen's proroguing Parliament; the next Session starts shortly afterwards. The Houses of Commons and Lords are prorogued together, but each can decide for itself when it will adjourn. As the Commons are only adjourned, and not prorogued, during the long Summer Recess, they can be summoned in emergency without formalities.

Every day, from Monday to Thursday, the House begins to sit in the early afternoon. Prayers are read, and there is then an opportunity to present petitions. When only a small minority of the people had votes, petitions served the useful purpose of keeping the House in touch with the wishes of those who could not influence it at elections; to-day there are few petitions and they have little effect. Members then rise to ask Questions of Ministers. Two days' notice has been given, and the Questions are printed on the Order Paper which every Member has. On urgent matters, the Speaker may allow Questions, even if notice has only been given to him by noon that day. The Questions range over all topics: What comment has the Foreign Secretary to make on such-and-such an event? Why cannot So-and-So, who lives in a remote part of Scotland, get a telephone installed? When the Minister has replied he may be assailed by Supplementary Questions as Members rise and say "Arising out of that reply, may I ask . . ." Skill in answering Questions is one of the qualities expected of a Minister, and if Members think they are not receiving proper consideration, there will be much excitement. Ingenious Members attempt to make short speeches in the form of Questions but are usually checked by the Speaker. If a Member is dissatisfied, he may move that the House adjourn in order to discuss "a definite matter of urgent public importance." The Speaker usually refuses to put this motion, but will do so if the matter in question is such as is defined by the Standing Orders of the House. Should the motion be allowed to be put, the Member's grievance can be discussed in full later in the day, and the Government will have to satisfy the House that proper action will be taken. When private persons have suffered an injury at the hands of an agent of the Government, their rights can be safeguarded in this manner. Question Time is thus valuable as a safeguard for individual liberty; it helps also to show how far each Minister understands his Department; it brings to light information which could not be obtained by anyone but the officials of a Government Department; it clears up doubtful points about

the Government's policy. It is sometimes misused by Members who take a pride in the number of Questions they ask, under the mistaken impression that their constituents will regard this as proof of their zeal for public work.

Question Time lasts for one hour, and if there are any new Members, recently victorious at by-elections, they will be introduced at its close. The new Member is escorted up the floor of the House by two of his own party, while his supporters cheer and the other side remain silent or make audible comments about his political past or incidents in the by-election campaign. The House is now ready to begin the work of legislation and control of money, which occupies two-thirds of its time. Every Thursday, in answer to a question from the Leader of the Opposition, the Leader of the House states what business will be before the House in the next week. At intervals, days are granted, on the Opposition's request, for a debate, not on the provisions of a Bill, but on the Government's policy in some important matter; or it may be for a Vote of Censure on the Government, when its whole record can be discussed.

So the business proceeds, until the time, late in the evening, when the Standing Orders of the House require that it be moved "that this House do now adjourn." Then, in accordance with an arrangement previously made, a Member will rise and make a short speech on a topic on which he is specially interested. One or two other Members may speak, but time will be left for the Minister concerned to make a short reply, and the whole discussion must be finished in half an hour, whereupon the House adjourns. In this way grievances can be aired, doubts cleared up or faults of administration criticised; but it is not in order to raise matters which would require new legislation. Competition among Members to "get the Adjournment" is keen and has to be decided by drawing lots.

The House may, on any day, resolve to sit beyond its usual hour, either for a fixed time or indefinitely; and there are some kinds of business, particularly financial business, which are exempted from Standing Orders. It can therefore happen that the sitting is prolonged until the following morning.

On Fridays the House sits from 11 a.m. till 4.30 p.m., so that the week-end is free. This arrangement, made first to give members leisure for private enjoyment, now gives the conscientious M.P. a chance to visit his constituency, keep in touch with his local party organisation, and address meetings; the "week-end platform" has thus become a feature of political life. Some Fridays are set apart for Private Members' Bills, and on other Fridays Private Members may introduce Resolutions; the latter are no part of the process

of making law, but allow ideas to be discussed and the opinion of the House tested. After Christmas, however, the Government increasingly uses Fridays for its own business, and after Whitsun no time is left for Resolutions or new Bills from Private Members, though the Bills already under discussion continue on their way. The Government can, if a majority of the House agree, take away and use for its own business the whole of the Private Members' time throughout a session; but it is naturally felt that only great pressure of business can justify this step.

DEBATES AND VOTES

Members must address their speeches, not to one another, but to "Mr. Speaker." They must not refer to other Members by name, but as the "Honourable Member for Richmond," or whatever his constituency may be. These formalities, as anyone who has belonged to a large debating society will know, help to prevent the discussion becoming too heated and degenerating into a wrangle. Speeches must not be read—though a Member may use notes or quote from documents—and must be confined to the subject under discussion. Offensive expressions are forbidden and the natural rules of civilised debate must be observed. A Member who transgresses the regulations will be greeted with cries of "Order, Order!" from his fellows, and called to Order by the Speaker. Should a Member attempt to defy the Speaker, the latter will "name" the offender and the Leader of the House moves that he be suspended from the service of the House. If the House agrees, the Member will have to leave; in the last resort the officers of the House will be called on to remove him. Suspension lasts for a few days and is ended by an apology. In the years following 1877, when Parnell led the Irish Party, deliberate obstruction was common and forcible removal of Members occurred. The Standing Orders which govern the procedure of the House have since been altered; Parnellite obstruction would no longer be effective and is not attempted, though there are occasional outbursts by indignant Members.

There is no time-limit for speeches, but the attitude of the House does not encourage long orations. A Member making his maiden speech is listened to with friendly interest, but the House soon makes up its mind whether a Member is worthy of attention. The rising of notoriously dull Members to speak is a signal for many to leave the Chamber, and it is not uncommon for Members to find that many of their audience are only there because they want to speak next. If the attendance is low, a count may be demanded: Members will be summoned from all parts of the building: if, even

so, less than 40 appear, the House is "counted out" and business comes to an end.

The lofty oratory and classical quotations of past centuries have vanished; for the House is no longer recruited from a single class, educated on a common pattern. While the good speeches of the past may be admired as works of art, those of to-day are distinguished by clarity and grasp of fact. Bad speeches, of course, are common enough as in all assemblies of human beings at all times and places.

THE BUILDING

The oblong Chamber in which this debating occurs is not large enough to hold all the Members; but since an M.P.'s work is not confined to attending debates this is not inconvenient, except at the opening of the Session or on rare occasions when nearly all wish to be present; some of the galleries then accommodate the overflow. The Speaker's chair is in the middle of one of the short sides of the Chamber; Government supporters sit on his right and the Opposition, facing them, on his left. The front bench on the Government side, called the Treasury bench, is occupied by Ministers, with their subordinates sitting close behind. The rows of benches are divided, half-way down the House, by a gangway, and Members who are not in agreement with the Government or with the official Opposition take seats below the gangway, on the far side from the Speaker's chair; thus in the present Parliament the Liberal Party sits below the gangway on the Opposition side. Apart from these rules, Members have no right to any particular seat; attendance at Prayers is stimulated by the fact that a Member may at that time reserve a seat for the rest of the day. Some of the older and better-known Members are always allowed to take their customary place. In front of the Speaker's chair is a table for the Clerks of the House; on it are the Mace and some official documents, and dispatch boxes. Galleries are provided for "distinguished strangers," Peers and Ambassadors, and for the Press and the compilers of Hansard, the official verbatim report of Debates. There is also room in the galleries for a limited number of the general public; Members ballot for tickets to give to their friends and constituents. The House has the right to clear the galleries and hold a Secret Session, as was done on several occasions during both wars.

The rest of the Palace of Westminster contains the House of Lords, the Committee rooms, Kitchens, dining and writing rooms and library; there are also the older parts of the building—Westminster Hall, where William Wallace, Warren Hastings and Charles

I were tried, St. Stephen's Chapel and the cellars used for the Gunpowder Plot. Flanking the debating Chamber are Division Lobbies. When a debate has ended the Speaker puts the question, asking those in favour to say "Aye" and those against "No"; he then announces "I think the Ayes (or Noes) have it," usually assuming the Government to be victorious. Frequently the Opposition, knowing themselves to be in a minority, let his decision stand; but if they wish they can shout "Aye" or "No," whereupon bells ring all over the building to summon Members to the Chamber; they then file into the Aye and No lobbies and are counted. The lists of those voting is published and helps the electors to judge how often their Member is at his post. The Whips of each party have the task of seeing that Members will be in the House when important divisions are expected; a Whip must therefore be well acquainted with the time-table and procedure. A Member who has an important engagement elsewhere may arrange with the Whips to find a Member of the opposite Party similarly placed, and "pair" with him—*i.e.*, make an agreement that neither shall vote at that division.

FROM BILLS TO ACTS

There are several kinds of Bill, the commonest being a *Public Bill*, *i.e.*, one affecting the whole community. For such a Bill to become law it must go through the following stages:—*Drafting*. The Department of the Minister concerned consults with the Parliamentary Counsel's Office, which is the part of the Civil Service charged with putting the Government's policy into the proper legal form. This is difficult and technical work, and it is not always easy to maintain the office staff at the size which the pressure of legislation to-day requires. *First Reading*. Notice having been given to the House that the Bill is to be introduced, the Minister hands a copy of it to the Clerk of the House who reads the "Long Title," which states the nature and purpose of the Bill. The House agrees that the Bill may be brought in and a day is fixed for Second Reading. Little time has been spent and this step is no more than an indication to the House when the main discussion will be held. *Second Reading*. This is a set debate on the general principles of the Bill. Thus, in the Second Reading Debate on the London Passenger Transport Bill, Members discussed the general desirability of bringing London Transport under the control of a single Board. The way in which the Board was to be appointed, the compensation of private transport companies, and all details were left for later consideration. The Second Reading Debate may last for two or three days, and at the end the motion "That the Bill be read a second time" is put. The Opposition may move as an

amendment "That this House declines to give a Second Reading to a Bill which fails . . ." and so on, describing the Bill's shortcomings: or, "That the Bill be read a second time this day six months"—when the House will not be sitting; this is only a complicated way of opposing the motion. The Second Reading is clearly an essential stage; until there is agreement that a given Bill is wanted, there is no purpose in discussing details. Provided that not more than ten Members object, the Second Reading debate on a Bill certified by the Speaker as dealing solely with Scottish affairs may be held, in the Scottish Grand Committee instead of the House. This Committee contains all members for Scotland, with others added to keep the balance of parties proportionate to that in the House. *Financial Resolution.* When the Bill is not a pure Money Bill but involves expenditure, as a large proportion of Government Bills do, the next step is for the House to "go into Committee." The Speaker leaves the chair; the Mace is put under the table; the Chairman of Committees presides and the discussion becomes comparatively informal. This "Committee of the Whole House" then considers a resolution authorising the spending of the necessary money, and the resolution is later reported to the House itself. Historically, this stage records the Commons' desire to control all grants of money to the Crown. Its present importance is that the wording of the Financial Resolution helps to define the scope of the Bill and so limits the nature of any amendments that may be proposed later. *Committee.* After Second Reading, Bills are referred to a Committee. Those of great importance, including all Money Bills, go to Committee of the Whole House; the rest go to one of the Standing Committees. These are named A, B, C, etc., and contain some fifty Members each, the parties being in the same proportion as in the House. Members are appointed to Committees by the Committee of Selection which is set up at the beginning of each Session: it has eleven members, six of whom are Government supporters. Committees meet in the morning, when the House is not sitting, or occasionally in the evening. Scottish Bills go to a Scottish Standing Committee composed of thirty Members from Scotland and about twenty others. There is a similar arrangement for Bills dealing solely with Wales and Monmouthshire, but these are very rare. The other Standing Committees do not specialise in any one subject. However, only about half a Committee's members are a permanent nucleus: the others are added for each Bill, and remain with the Committee while that Bill is under consideration: so each Bill secures the attention of a certain number of specialists in its subject-matter. The Speaker appoints for each Committee a Chairman, under whose guidance the Committee examine the Bill clause

by clause and debate amendments both to its substance and its wording. The distinction between parties is not so sharp in Committee discussion as in debates in the House. There will be certain points on which the Government supporters will stand firm, but very considerable modifications are made as a result of Opposition pressure. The public often under-estimate the amount of work done by M.P.s because they do not realise how much is done in Committee; most newspapers only report Committee work when a point of special news-value arises. *Report.* The Bill, as amended by the Committee, is reported to the House, who decide whether to accept or reject the Committee's amendments. This ensures that the Bill, in its final form, represents the opinion of all Members and not only of the Committee. It sometimes happens that the Minister in charge of a Bill agrees with criticisms made in Committee but cannot immediately frame the necessary amendments; he has an opportunity to introduce them at the report stage. *Third Reading.* This is a final debate on the Bill; it does not, as a rule, take much time, and only verbal amendments may be introduced.

"*Another Place.*"¹ It has been assumed throughout this description that the Bill starts in the Commons. In fact, a Bill may be introduced in either House, save that *Money Bills* must start in the Commons, and *Law Bills*, dealing with the intricacies of the legal system, usually start in the Lords. When a Bill has passed one House it must go through the same stages in the other. Consideration in the Lords is quicker; the Committee stage is usually handled by a Committee of the Whole House, though a small Standing Committee often revises the wording of Bills. If one House inserts amendments which the other dislikes, the Bill may go to and fro between the Houses twice or even more often; then perhaps one House will give way; or a conference of representatives of the two may be held, to reach a compromise; or the Bill may be dropped; or, if it is a Commons Bill, the help of the Parliament Acts may be invoked.

Royal Assent. Once through both Houses, the Bill is sure to become law. If it is urgent it will be presented for the Royal Assent at once, but usually Bills are presented in batches at the end of a Session or before a holiday adjournment. The Assent is given, by Lords Commissioners holding a Commission authorising them to do so, in the Norman-French words *La Reine le veult* (the Queen wishes it). The ceremony is held in the House of Lords, the Speaker having been summoned thither; a number of Mem-

¹ The phrase used by a person speaking in one House of Parliament and referring to the other

bers of the Commons accompany the Speaker; so at this ceremony every part of Parliament—Queen, Lords and Commons—is represented.

A *Public Bill* may also be introduced by a Member holding no Government position; it is then called a *Private Member's Bill*. Should such a Bill involve expenditure, it cannot proceed beyond Second Reading, unless a financial resolution is moved by a Minister. If this rule were not kept, every Member would be tempted to bring forward Bills which would cause money to be spent in his own constituency, and the House would be the scene of a continual scramble for public funds. The Private Member must draft his Bill himself, or employ an expert; then he may try to introduce it by joining in the Ballot for time on a Friday. He may learn that his Bill is to be, say, the second on the Order Paper for a Friday early in the Session—only to find that the first Bill on the Paper provokes so long a debate that there is no time for his own, or that the House, bored by the earlier Bill, is counted out. Alternatively, the Private Member may introduce his Bill on another day at 3-45, under the Ten Minutes' Rule: he makes a short speech in its favour and another short speech is made against. If the House agrees, the Bill can go forward for Second Reading. But the pressure of Government business, which takes at least three-quarters of the available time, makes it impossible that a Private Member's Bill will become law unless it is unopposed, or the Government sees that there is a strong feeling in its favour, and makes room in the time-table. Here lie two serious defects of Commons procedure: the Private Member feels that he has little scope for expressing his own ideas: and much of the time that Private Members do have is wasted discussing Bills which have no chance of becoming law.

The House has also to consider many *Private Bills*, the usual purpose of which is to allow some Company or Local Authority to proceed with a building, or railway, or works of some kind which will interfere with the property rights of private persons. The Promoters of the Bill must have it handed to the Private Bills Office of the Commons, or to the Clerk of Parliament for the Lords; an examination is there made, to see that the Bill is in the proper form. It then proceeds as far as Second Reading with little debate, though it may be opposed. If so, it goes to a Private Bills Committee of four Members of the Commons (or five Lords). Procedure there is more like that of a law court than of an ordinary Committee. If the Committee disapprove, that is the end of the Bill; if they approve, it is almost certain to go through the remaining stages quickly and become law. Where there has been

no opposition at the Second Reading, the Bill goes to the Unopposed Committee, of five Members, presided over by the Chairman of Committees. Provided the Bill introduces no important new principle into the law, its passage is assured. Private Bill procedure gets a great deal of work done without taking up the time of the Whole House, and yet enables Parliament to see that injustice is not done to individuals.

Instead of promoting a Private Bill, the Company or Local Authority may in some cases obtain an Order from a Government Department allowing them to proceed. Such an Order is called "Provisional" because it cannot be acted upon until it has received Parliament's approval. This is given by the passing of a *Provisional Order Confirmation Bill*, which is generally unopposed, as the Department is not likely to make an Order to which Parliament would object. If there is opposition, the Bill goes to a Select Committee, but the chances of its being defeated are negligible. Thus the task of protecting the individual from injustice is shifted to a Department, but Parliament still preserves the possibility of appeal to its own authority.

EFFICIENCY

This completes the account of how the various kinds of Bill become law; and the reader, noticing the length and complexity of the process, may marvel that any laws are made at all. Yet they are made, by the hundred, every Session, and this becomes easier to understand when the methods of "applying the Closure"—i.e., bringing a debate to an end—are studied. The simplest form of Closure is for a Member to rise and move that the question be now put. If the Speaker approves, he may allow the House to vote on this motion; if it is carried and at least 100 Members are voting for it, the debate ends and a vote is taken on the matter under discussion. When the Government have a long Bill going to its Committee stage, they may, by a majority vote of the House, impose a time-table which requires that at a fixed time the vote shall be taken on, say, all Clauses up to Clause 20; at another fixed time, on all Clauses up to Clause 40, and so on. This "Guillotine" enables the Government to know in advance when a Bill will be finished; but it restricts debate, and the Government's proposal to use it may be vigorously, though unsuccessfully contested by the minority. When the Guillotine is used, the House may take so long discussing Clause 1 that they have to vote on Clauses 2 to 30 without any discussion. Once the House has agreed to use the Guillotine a "Business Committee" of Members is appointed to decide, within the limits stated in the Motion

approving the Guillotine, how the available time shall be allocated for the Committee, Report and Third Reading of the Bill.

Only a Government which possesses a clear majority can be sure of getting permission to use these methods; but a resolute use of them makes it possible to pass a Bill through all its stages in a few days, or, by suspending Standing Orders, as little as half an hour. If a great emergency arose the Government could quickly use its majority to pass laws giving it all the necessary powers, in addition to those it possesses under the Emergency Powers Act, 1920. A Government which lacked the people's confidence would, no doubt, hesitate before attempting to steam-roller Parliamentary opposition; but there is nothing in the procedure of Parliament to prevent a Government which truly represents the people's will from carrying that will into effect.

Since Parliament was first created its work has enormously increased, and much of this increase has occurred in the last fifty years. Not only is there more work to be done: the amount of knowledge available, and the amount needed to do the work well, have likewise grown. The M.P. who wants to speak to good purpose on social insurance, or foreign affairs, or colonies, must spend much of his time reading books and papers and meeting people experienced in these fields. All this restricts the time available for sitting in the House, and there is a tendency for debates to become better-informed but less well attended, each subject attracting its specialist group. The work of Ministers grows likewise: Questions and Adjournment debates multiply; Ministers are urged to receive deputations, to visit hospitals, schools, factories and acquaint themselves with every detail of their work. The visitor to the House comes hoping to see an eager assembly discussing great issues. Sometimes his hope is fulfilled: more often he listens to a highly specialised discussion, the real importance of which is obscure to him unless he has background knowledge of the particular topic. Parliament's problem is to get the wood and the trees in due proportion, and the answer has to be found in continual reform of procedure. In fact, few Sessions pass without some procedural changes. Since 1945 the arrangements for Questions, Adjournments, the Closure, Private Bills, Scottish and Welsh business and matters affecting the Armed Forces have all been altered so as to reduce the time spent on inessentials and concentrate on major issues. It is also coming to be accepted that junior Ministers should bear greater responsibility. These changes, and the fact that Ministers and Members work far longer hours than in the past, have made it possible for the work to go on. Select Committees have recently examined

both procedure and the work of Ministers, and further changes, arising from their Reports, may be expected.

Yet it would not be wise to pursue efficiency at the expense of individuality. Parliament is more than a machine for making laws; it is a forum for discussion, for redress of grievances and exposure of abuses. It must always be ready to switch from its ordinary work to meet emergencies. More than once, the erratic and eccentric Member has focussed attention on a problem and started the process of reform. The completion of that process has sometimes been left to others, who will sit through the long hours in Standing Committee and turn a brilliant idea into a workable Act. The present tendency is away from the spectacular towards the workmanlike. This might have the result, dangerous to democracy, that Press and public, finding the solid work of Parliament too specialised to be easily understood, will notice only the occasional comedies and outbursts of feeling.

The ordinary citizen has here a task to perform. If M.P.s realise that their constituents know the general outline of Parliamentary procedure, and will not be impressed by the ceaseless asking of questions, or the promotion of high-sounding but useless Bills, then there will be greater enthusiasm for the more laborious work of Committees. As Parliament continues to reform its procedure and re-draft its Standing Orders, this point should be remembered, and every effort made to clear away out-of-date forms and phrases, and attain the maximum of simplicity. Even if this were done, the procedure would still be complicated enough; the method of Government of a great State cannot, any more than the working of an engine, be at once apparent to a casual observer. But, to pursue this example, few can become fully qualified engineers, yet many possess a useful general acquaintance with the working of a motor-car. Not everyone can or need be a legal and Parliamentary expert; but the ordinary citizen can, if he wishes, acquire sufficient knowledge to make a shrewd judgment of his M.P.'s usefulness. This is but one aspect of a great problem; how to raise general knowledge in politics to the standard which it attains in other fields.

BOOKS :

- *JENNINGS *Parliamentary Reform* (New Fabian Research Bureau)
CAMPION *Parliament, A Survey.*

CHAPTER XI

THE CONTROL OF MONEY

Supremacy of Parliament
Estimates
The Budget
Economy
Debt

SUPREMACY OF PARLIAMENT

Parliament maintains its supremacy over the Government by a jealous watch over money. In previous centuries the Crown has tried many methods of getting money without Parliament's consent; it drew revenue from its property; it borrowed; it revived forgotten laws and imposed heavy fines on those who had unwittingly broken them; it sold special privileges to individuals; it tried to compel the payment of taxes which Parliament had not approved. Charles I's attempt to use this last method, by requiring ship money from those not legally obliged to pay it, was one of the incidents leading to the Civil War. Most of the other expedients have now been declared illegal, beyond doubt, and the Crown's property, to-day, provides only a tiny fraction of the money needed for Government. The first object of Parliament's rules about money is, therefore, political; but they have also the economic object of preventing waste. Parliament seeks, first, to ensure that the Government shall not get any money without Parliament's consent: secondly, to control the spending of that money, partly for the sake of economy, and partly to see that the Government, having got money for one object, does not defy Parliament by spending it on something else: thirdly, to enable the Government to carry on its work; the control by Parliament must not be so rigid that the Government is helpless.

All the money collected forms the Consolidated Fund; out of this the law allows certain payments, called Consolidated Fund charges, to be made regularly, without repeated consent from Parliament. For other payments, Parliament must give authority every year, by passing an Appropriation Act. The most noteworthy of the Consolidated Fund charges are the interest and other expenses connected with the National Debt, the Civil List and the salaries of the more important Judges. Thus people who lend money to the Government can feel sure that their interest will not suddenly cease because of a refusal by Parliament to grant it; and judges can feel themselves independent of the

majority in Parliament. Parliament could alter this arrangement by passing a new law; but as matters now stand, if Parliament wishes to stop the Consolidated Fund charges it must take positive action; to stop other payments it need only refrain from passing the next Appropriation Act. Taxation is divided on the same plan as expenditure; Death Duties and indirect taxation continue without yearly approval; the collection of Income Tax is made lawful from year to year by a Finance Act.

ESTIMATES

Money must be raised before it can be spent; yet the total to be spent must be settled before the raising can be discussed. So Parliament's first financial task is to discuss the Estimates which each Department has made of the money it will require. From October till the end of the year the Departments are in consultation with the Treasury, to whom the Estimates are finally sent. The Departments have to consider how much they spent last year and how far changes of Government policy and natural factors, such as growth of population, will affect the figures for this year. In February it is moved in the House of Commons that the Speaker leave the Chair so that the House can become "Committee of Supply." This gives rise to four debates, on the Civil, Navy, Army, and Air Force Estimates respectively. Private Members have here an opportunity for raising a variety of points connected with the Estimates that are to be discussed. After this general and rather haphazard discussion, the Committee considers the details of Estimates in order. As has been shown, no one may propose that more money shall be spent than the Government has requested: if a Member thinks that a Service is being starved, he can move that the salary of the Minister be reduced; if the motion were carried it would amount to a vote of no confidence in the Government. As each "Vote," *i.e.* item in the Estimates, is discussed, the disagreements between Government and Opposition are made clear; indeed, the whole effect of the Committee on Supply is to debate the merits of the Government. This is extremely useful; the Government is obliged to explain its policy in every branch of its work, and the attention of the public is drawn to the chief political questions of the day. But the Committee ceases to be a body which considers whether the Government is careful with money; the question at issue is always, "Is this a proper object on which to spend money?", not "Could this object be attained at less cost?" In 1936 and 1937 the Labour Opposition was faced with a problem about the Estimates for the Armed Forces. The Labour Party was of opinion that if it were in power

it would itself have to propose large armament expenditure; could it, then, reasonably oppose the Estimates? Could it, on the other hand, vote for them, and so seem to agree with the arming of a Government whose foreign policy it condemned? The decision was to criticise policy during the debate and abstain from voting at the end. The debate is, in fact, more important than the vote: the former allows opinions to be expressed; the result of the latter is determined by the Government's majority.

The Committee on Supply continues its sittings at intervals with the other work of the House, and will use twenty Parliamentary days to complete the Estimates. The work will not be finished by April 1st, the beginning of the next financial year, and after that date the Government will have no authority to spend, though services must be maintained. The Committee on Supply therefore passes a "Vote on Account"—a grant of money to maintain the Government for a few months. Then another Committee of the Whole House—the Ways and Means Committee—proceeds to empower the Government to raise taxes and loans, and to draw from the Consolidated Fund. The decisions of this Committee are reported to the House and made law as a Consolidated Fund Act before April 1st; on the strength of this Act the Government can borrow what it needs for the time. The Committee on Supply then finishes the Estimates. Sometimes the Government finds that it will require more money than was first supposed, and a Supplementary Estimate is laid before the Committee. All the votes on the Estimates are assembled in the Appropriation Act which becomes law, under the usual Money Bill procedure, just before the Summer Recess; the Government's powers to borrow and spend are thus prolonged for the rest of the financial year

THE BUDGET

The task of the Committee on Supply is to authorise the spending of money by the various Departments: the duty of raising the money belongs to the Ways and Means Committee, to which, near the end of April, the Chancellor of the Exchequer makes his Budget Speech. This is the longest speech that Parliament hears, and lasts nearly two hours. The Chancellor first explains to the Committee the accounts of the year which has just ended, showing how the actual figures differ from the Estimates presented a year before. This forms a basis for general conclusions about the country's prosperity. If Income Tax has yielded more than was hoped, this is a sign that more work has been done and more wealth produced; if the consumption of taxed articles—beer, tea, amusements—has risen, not only does the Exchequer benefit, but

there is evidence that the people have more money to spend. If the yield from taxation has been disappointing, the Chancellor endeavours to find some explanation not discreditable to the Government. Expenditure for the past year is likewise set out, and variations from the Estimates are explained. If there has been a deficit on the year's working, the Treasury will have met it by borrowing; if a surplus, it will be devoted to the repayment of debt, and the Chancellor's next step is to inform the Committee of the state of the National Debt. It is, of course, essential that deficits shall be small and of rare occurrence. If the Government were always meeting its regular expenditure by borrowing it would soon find unwillingness to lend; then it might be driven to the dangerous expedient of inflating, *i.e.*, printing more paper money. This causes a sharp rise in prices, and, if pushed far enough, will make money worthless and ruin large numbers of people.¹ On the other hand, there is no need to have a surplus, since regular provision is made for repayment of debt, as part of the yearly expenditure. Just as an individual would be unwise to repay a debt quickly by economising at the expense of his health, so a Government must strike a balance between the need to make some repayment and the undesirability of excessive taxation. Perfect accounts, therefore, would balance to the last penny, but this cannot be attained in practice. Usually the accounts do not differ from the Estimates by more than one or two per cent., which speaks well for the judgment of the Treasury officials.

The Chancellor next reminds the Commons of the Estimates of expenditure for the coming year, which, as Committee on Supply, they have under review. He shows what would happen if all this were spent and no changes in taxation were made. There might be a surplus; or, if the public expenditure has been rising, there would be a deficit. Then comes the part of the Speech for which the whole country has been eagerly waiting; what reductions or increases in taxation are proposed? Until this moment the changes have been known only to the Cabinet, and to those public servants who have assisted the Chancellor or had charge of the printing of the necessary papers. In 1936 a scandal occurred because some of the proposals were revealed in advance to private people who made money out of their knowledge. The event is without parallel in modern times; the swift inquiry into the facts and the ending of the political career of the Minister held to be responsible were proof of the high standard of morality in regard

¹ During a slump, a Government might practise moderate inflation with beneficial results. This, however, is a complex economic problem which cannot here be properly discussed.

THE CONTROL OF MONEY

to public money. No Civil Servants were involved in the scandal.

Documents and financial tables are provided to make clear to M.P.s the more complicated parts of the speech; but even so they cannot discuss it properly at once. Leaders of the Opposition parties, ex-Chancellors of the Exchequer, and a few other Members make brief comments; the Resolutions having, under the Provisional Collection of Taxes Act, the force of law, are passed, and the House turns, for the time, to other business. In the days that follow, the Budget proposals are discussed in detail and finally become law as the Finance Act.

In the years immediately before the war of 1939-45 the Budgets showed an annual revenue and expenditure mounting towards £1,000,000,000, which was about one-fifth of the total wealth produced in the United Kingdom each year. Post-war Budgets are bound to deal in larger money figures; but as money income and prices are higher, the proportion of the total annual production which is taken in taxation may not prove to be greatly increased.

When certain exceptional forms of taxation, arising from the war, have disappeared, it will probably be found that slightly more than half of the Government's revenue will be raised by direct taxation—Income Tax, Surtax and Estate Duties. Persons with small incomes are exempt from Income Tax, and the rules of payment are such that the richer a person is the larger the proportion of his income which is paid away in taxation. This "progressive taxation" principle is carried still further by the surtax which is levied on large incomes, so that only a very small number of people will have more than £5,000 a year left after paying these taxes. Estate Duties ("Death Duties") are charged when property changes hands owing to death, but only one-fifth of those who die leave sufficient property to be considered.

The rest of the revenue is collected by indirect taxation—Customs Duties on imported articles, and Excise on goods and services produced at home. The usual aim of policy is to tax those articles, such as beer and tobacco, which are widely consumed but which cannot be regarded as necessary to life and health. This indirect taxation falls on all classes but, naturally, makes a bigger proportionate hole in the pocket of the poorer man. The British system of taxation therefore aims at collecting large sums by direct taxation from a limited number of people, and at drawing the rest of the nation into the net by indirect taxation, so that everyone becomes a taxpayer.

How is this revenue spent? If we set aside exceptional expenditure arising from the 1939-45 war, we may notice four items each

of which is likely to take about one-quarter of the total spent. These are, the National Debt, the Armed Forces, the Social Services, and the general expense of maintaining the machinery of government.

ECONOMY

That Parliament, charged with controlling so large a sum, should be careful with it, is a truism. The word "economy," however, when applied to Government finance, has two distinct meanings. Economy is, in substance, the spending of money and resources in such a way that they will give the greatest possible satisfaction. If the question is put, "Would it be economical to cut down the public services and so reduce taxation?" the point really at issue is this :—Less money will be spent on something the Government provides; it may be armaments, schools, or Old Age Pensions; tax payers, having to pay less, will spend more on the things that they, as individuals, like—say, books, amusements, or clothes. Fewer men and materials will be employed on making armaments or schools, and more on providing amusements or clothes. Will that be a better use of resources? Will it increase the welfare of the people as a whole? Will high taxes cause people to save less, and so dry up the flow of capital to industry? Will those who manage industry be less willing to take risks, because part of their profits will be taken by the State? It would certainly be uneconomical to abolish all expenditure on education, in order to reduce the Income Tax; it would equally be uneconomical to increase educational expenditure tenfold at the present time. But apart from these extreme examples, there can be no definite statement of fact about what is economical. The phrase "welfare of the nation as a whole" is vague, nations are composed of groups whose interests differ and conflict. When people discuss a proposal to increase Old Age Pensions by heavier taxes on the richer classes they will try to show that it will, or will not, mean a better use of the nation's resources; but they will be strongly influenced by the effect that the scheme is going to have on them. "Economy" in this sense is therefore a question in dispute between parties.

There remains a second meaning, more restricted and easier to define. Once it is settled that the State is to carry out a given total of activity, it is to everyone's interest that this should be done without waste of money. There would be no sense in spending £30,000,000 on a particular Department if the same results could be achieved for £20,000,000. A good financial system will contain provision for watching expenditure in the interests of this kind of economy.

Government Accounts come under the eye of the Comptroller and Auditor-General, who, like a judge, cannot be removed from office save at the request of both Houses of Parliament, and whose salary is a Consolidated Fund charge. As Comptroller he sees that all money collected goes into the Consolidated Fund, and that none goes out without the proper Parliamentary authorisation. As Auditor he examines all the Accounts to see that the money has only been spent in the ways which Parliament approves. It is clear that he is not concerned with economy, but with the supremacy of Parliament over expenditure. If a Minister wished to equip his Department with the most luxurious furniture and persuaded Parliament to approve the necessary Vote, the Comptroller-General, seeing the Parliamentary authority, would raise no objection. It is significant that the phrase "uncontrolled expenditure" which in everyday speech would mean extravagance, means in official language, expenditure which Parliament has not approved. The reports of the Comptroller-General come before the Public Accounts Committee, composed of fifteen M.P.s. This Committee may criticise extravagance, but it also is chiefly concerned with keeping the Government under Parliamentary control. Since, however, the reports describe expenditure in great detail, serious waste is not likely to remain hidden.

The body really charged with the prevention of waste is the Estimates Committee, composed in the same way as that on Public Accounts. It examines in detail the record of one Department after another and presents annual reports. But the work is so great that the Committee rarely deals with more than one Department each year; nor does the House of Commons give sufficient time to consideration of its reports.

One conclusion is unavoidable. Parliament has concerned itself so much with preventing "uncontrolled" expenditure that it has neglected the prevention of waste. Yet public administration in Britain cannot be labelled extravagant; it compares favourably with that of most other countries. But it is questionable whether Treasury supervision of Estimates is sufficient check on the growth of small items of unnecessary expenditure; and these, if unremoved, make up in time a formidable total. In the middle of the 19th century Mr. Gladstone found an accumulation of waste and had to destroy it by instilling rigorous habits of economy into all who worked with him. This tradition has not yet died; but it was weakened by the wars, when resources had to be provided quickly rather than economically, and by the great growth of public expenditure which has made details appear negligible. The development, during the 1939-45 war, of the Select Committee on National

Expenditure, suggests that attention is now being given to this problem.

DEBT

Frequent reference has been made to borrowing by the Government and it will now be convenient to summarise the facts of the National Debt. There is, first, the "floating" debt of about £6,000,000,000. This has been borrowed from the banks by means of Treasury Bills and Treasury Deposits, as previously described, and from the Bank of England, which makes what are known as Ways and Means Advances to the Government. Secondly there is the money borrowed by the issue of Savings Certificates, War Bonds, etc., mainly during the recent and earlier wars: this amounts to £15,000,000,000. The law provides that a sum shall be set aside each year to pay the interest, and any unexpected surplus in an annual Budget would add to the Sinking Fund which the National Debt Commissioners control: but there seems little prospect of repayment of any substantial amount of the Debt. Finally, there is an External Debt, owed to foreign countries, the size of which cannot be precisely stated.

As the Government acquires industries from private owners it incurs a liability to pay compensation. This is, however, very different from the ordinary National Debt. Against the liability to pay compensation stands an asset—the industry itself, which if wisely managed will be on balance a source of wealth to the nation.

The money raised by the National Debt however, has been spent in the waging of war; the goods which it bought have been destroyed, the Debt alone remains.

CHAPTER XII

THE ELECTION OF PARLIAMENT

Constituencies and Voters
Criticisms of Present Law
 Insufficiently democratic
 Too democratic
 Functional Representation
 Proportional Representation
Progress of an Election
Electors and Elected

CONSTITUENCIES AND VOTERS

The House of Commons is intended to represent the people. If this purpose is to be fulfilled, every adult should have an equal share in electing the House. The country is accordingly divided into constituencies, each of which has the right of returning one Member of the House of Commons. The constituencies are either "Parliamentary boroughs" or Divisions of Counties, so that a vestige of the old plan of burgesses and knights of the shire is preserved, though the distribution of Members has changed greatly with the growth and movement of population. Some towns which have the status of a Borough for their own local Government—have, for example, a Charter and Mayor—are too small to have a Member and are included in a County Division; thus Margate is in the Isle of Thanet Division of Kent; other Boroughs in the local Government sense, such as Manchester, are so large that they must be cut into several Divisions, each returning a Member. The basis of the arrangement of constituencies is the Representation of the People Acts of 1918 and 1948. The 1918 Act divided the country geographically into 603 constituencies of which England had 485, Wales 35, Scotland 71, and Northern Ireland 12. Twelve more members were elected by people through the country who were graduates of a University.

Although an effort was made to ensure that constituencies should be of approximately equal size, inequalities appeared in time because of movements of population. An Act passed in 1944 divided some of the overgrown constituencies, so that for the election of 1945 the number of Members was temporarily increased to 640. At the same time, however, Boundary Commissioners were appointed to deal with the problem systematically. Their task is to re-divide the country into approximately 625 constituencies.

preserving the same proportions for England, Wales, Scotland and Northern Ireland, as in the 1918 Act. Within each of these parts of the Kingdom they are to recommend such boundaries as will give constituencies of approximately equal size. The recommendations which they will make periodically will, subject to revision by Parliament, be passed into law.

The Act of 1948 restored the House of Commons to approximately the same size as before 1945. At the same time it abolished the University seats, amalgamated the City of London with adjoining constituencies and required that no constituency should return more than one member. The principle of "one man one vote" was established, save that in local government elections a person may vote, by virtue of ownership or tenancy of premises, in more than one local government area.

The task of making up the register of persons entitled to vote is laid on local authorities. The Clerks of Borough and County Councils, acting as Registration Officers, compile lists of all British subjects over 21 resident in the constituency. All these are entitled to vote unless they are certified lunatics, persons convicted of treason or felony, or of offences against the electoral laws, Lords of Parliament or Scottish non-representative Peers. Special arrangements are made for members of the Armed Forces and the Merchant Navy, and for others whose occupation makes it likely they will be out of the constituency at election time. Opportunity is given for the public to inspect the Register before it is finally made valid, and the agents of political parties do their best to see that all their known supporters are properly included.

All who are qualified to vote are also qualified to stand and be elected, except clergymen of the Established Churches of England and Scotland, and of the Roman Catholic Church, and persons holding a salaried office from the Crown, though this does not, of course, apply to Members of the Government. The Sheriffs and Mayors who, in Counties and Boroughs respectively, act as Returning Officers in charge of the election, do not, since the 1948 Act, have a casting vote in the event of a tie between two candidates, the issue being now decided by lot.

CRITICISMS OF PRESENT LAW

The rights of voting and standing are thus so widely extended that the system seems certain to produce a House representative of the people's will. It is criticised, however, from four points of view.

(1) It does not give complete equality to all voters. This criticism has lost much of its force with the disappearance of various

forms of plural voting since the passing of the 1948 Act. It is noticeable, however, that rural constituencies contain on the average fewer voters than urban constituencies and this gives the rural voter a somewhat greater influence on the composition of the House of Commons. There is good reason for this arrangement since it prevents a rural constituency from becoming so large in area that one member could not properly acquaint himself with its needs. The degree of inequality is small, so the question is not of first-class importance. There was more force in the objection to the University vote. The supporters of this privilege claimed as a matter of principle, that educated people understand Government better than others, and should have more power in choosing those who are to rule. This is very debatable: all the people have to be governed and they all know what it feels like; if a privileged group are given special powers they will pay insufficient attention to the grievances of the unprivileged, which lie outside their own experience. Nor is the possession of a University degree any proof of superior fitness for choosing the Government. The graduate may have gone to a University simply because his parents could afford to send him, and there secured a Pass degree with a minimum of ability or industry. Alternatively, he may be a brilliant scholar, but acquainted only with one branch of knowledge and remote from the life of the people; his claim to the extra vote may be answered, appropriately enough, by the Greek proverb "Much learning does not teach sense." Both these types are common enough in Universities. There was more to be said for the practical argument that University constituencies permit the election of men and women who combine academic brilliance with knowledge of the world; who can make valuable contribution to Parliament's work, but do not belong to any party and so would find election elsewhere more difficult.

(2) Other critics claim that the present law gives too much equality, and that the vote should be restricted to a group distinguished from the mass by wealth, aristocratic birth, or education. The general argument concerning democracy must be examined later; here it will be sufficient to note practical objections to any proposal of this nature. The wealthy and aristocratic have already great governmental influence, both in the House of Lords and elsewhere; it would be impossible to persuade the majority to give up their vote to such a group. The theoretical and practical objections to Government by an aristocracy of the educated have already been noted; and who could devise an examination which should show who were fit to govern? The idea of a restricted franchise has ceased to be practical politics: modern opponents of demo-

cracy do not adopt it; rather, they allow the whole people to vote on certain occasions, taking care that the vote shall have no real effect on the powers that rule. It is interesting to read Bagehot's attack on the idea of votes for all adults, the "ultra-democratic theory," as he calls it. He paints a lively and not altogether untrue picture of the type of Parliament which will be elected by universal suffrage. Events, however, have shown him to have neglected one great truth—that the extension of the vote to the working-classes, and particularly to working-class women, would oblige Parliament, as never before, to give attention to social questions—that is, to the lives and everyday needs of the people.

(3) The number of Members of each party in the Commons does not properly represent the numerical strength of the parties in the country; in particular, minorities are under-represented. The truth of this criticism can be demonstrated by simple arithmetic. If in one constituency a Labour candidate gets 15,000, a Conservative 12,000 and a Liberal 8,000, then a Labour M.P. is elected though there is a non-Labour majority. Suppose that in each of three constituencies 40,000 votes are cast and that of the total 120,000 only 50,000 are Conservative; yet if 22,000 of these have been cast in one constituency, 21,000 in another and 7,000 in the third, the Conservatives, possessing only five-twelfths of the votes in the whole area, will win two-thirds of the seats. In 1945 the Labour Party, with 48% of the votes, won 61% of the seats. By 1950, Labour's percentage of votes had fallen only slightly, to 46%, but it secured only just over half the seats. In 1951, the Conservatives, with 48% of the votes to Labour's 49%, won 51% of the seats to Labour's 47%. In 1955, with 50% of the votes, the Conservatives won 55% of the seats. At this last election the ratio of Conservative seats to Labour seats was almost exactly the cube of the ratio of Conservative votes to Labour votes. At the earlier elections a somewhat similar result had been observed, save that, after the cube calculation had been made it was necessary to deduct 20 seats from what would have been the Labour total and add them to the Conservatives to get the actual result. It is uncertain whether this "cube law" as psephologists (students of voting) have called it, will continue to operate. The smallest party is the heaviest loser: in 1955 the Liberals had 2.7% of the votes but less than 1% of the seats.

Various methods are proposed to get a House more exactly representing the voting strength of the parties. One of these, the Second Ballot, was used in France. After the first voting day only those candidates who have received more than half the votes cast in their constituencies are elected. In the other constituencies the candidates at the bottom of the poll withdraw, and a week later

the people make their choice among those who remain. When another method, the Transferable Vote, is used, the voter puts against the name of the candidate he supports, not a cross, but the figure 1; then if he wishes he can put 2, 3, and so on against other names, in order of preference. If a candidate has a clear majority of first choices, he is elected; if not, the votes given to the candidates at the bottom of the poll are divided according to the second choice marked on them; this process is repeated until one candidate has a clear majority. This method was used in the University constituencies, in most of which, however, it was complicated by the fact that two or three Members were to be elected.

The University system was in fact an intermediate step between the simple Transferable Vote and the plan of Proportional Representation. The latter is more elaborate than either of the previous plans, but also more successful in making the elected assembly a miniature reproduction of the electorate. The country would be divided into large constituencies returning several Members; thus Cornwall, which now contains five single-Member constituencies, might become one five-Member constituency. To be elected, a candidate must obtain a "quota" of votes varying with the number of Members to be returned: in a five-Member constituency the quota would be just over one-sixth of the votes cast, in a six-Member constituency, just over one-seventh, and so on. The Voter records a Transferable Vote; candidates with more than the quota of first choices are elected, and their surplus over the quota is distributed among the other candidates in the proportions which second or later choices indicate. The votes of the candidates at the bottom are similarly distributed until the required number of persons obtain the quota and are elected. Supporters of this system claim first, that since it gives fair representation to all parties, there will not be, as at present, large numbers of citizens who feel that they do not get their proper share in choosing the Government. Secondly, small groups will find it easier to get representation in Parliament and will thus be able to bring their proposals to the notice of the great parties, which, left to themselves, are inclined to stick to their traditional programmes, to the neglect of new ideas. Thirdly, the parties, realising that their seats in the House will be proportionate to votes in the country, will try to win support by making their programmes less extreme. Nor will it be usual, as past voting shows, for one party to get a clear majority in the House, and coalition Government will be more frequent. So party strife will be less keen, and extreme policies, in one direction or another, will be prevented.

There are several objections to these arguments. It is not certain

that a House which photographically represents each party and group is a true picture of what the electors want. Keen party supporters would often prefer to see their party in opposition than forming part of a Government with other parties, dependent on them and unable to carry out the policy in which it believes: for then party members become discouraged and the elector is led to suppose that all parties are much the same, and that it does not matter how he votes, or whether he votes at all. Nor are the mass of electors, not firmly attached to any party, more likely to be satisfied. They usually desire to see returned to power a Government able to carry through a policy which has been stated at the election, should the Government fail to do so, it can be judged accordingly. Under Proportional Representation the elector would know that, whatever party he voted for, there would be little likelihood of its policy being carried out, for the Government would be a coalition whose nature and working would be unpredictable. At the 1945 Election the majority of electors clearly desired a Labour Government; by 1950 they wished to reject the more Socialist parts of Labour's programme without losing the achievements of the Welfare State. In 1951 they were attracted by the Conservative arguments against controls, and in 1955 they wished to express moderate satisfaction with four years of Conservative rule. The people may have been right or wrong to wish these results, but that they did wish them is certain to everyone who studied opinion at the time, and, under our present voting system, they secured them. The measure of support secured by the victorious party is, no doubt, exaggerated, but the suggestion that the present system is a gamble, and its results a matter of chance, will not bear examination.

The members of great parties are held together to-day by the knowledge that if they sink minor differences they may be able to return a majority Government to power. Proportional Representation, by taking away the hope of a clear majority and increasing the chances of small groups, would yield a Parliament in which the number of parties was greatly increased. The inevitability of Coalitions would not lessen party strife; each party could put forward a rosy programme without bothering too much about its practicability; for the excuse is always to hand "You could not expect us to carry out all our programme; we had to sacrifice this and that item at the request of other parties in the Government." The Government's programme would be arranged by bargaining. "We will agree to this if you will agree to that"; and in this atmosphere principles and the will of the people are likely to be forgotten.

The fierceness of party strife is not determined by the method of voting but by the problems which the country faces. When, as in Germany after 1930, economic distress is acute and the only apparent remedies involve the sacrifice of the interests of one section or another, then the conflict becomes bitter. The Governments produced by Germany's Proportional Representation system were unable, being Coalitions, to pursue a consistent, determined policy which would win popular support; and in the general confusion the liberty of the German people, and the security of Europe, vanished. If it is a virtue in Proportional Representation that it checks extremism, it is a vice that it encourages delay. When great difficulties have to be faced the people will forgive much extremism to get a Government which can act boldly and quickly; if a Proportional Representation system hinders them, they are likely to throw aside self-government.

(4) The grouping of electors into geographical constituencies is criticised as unreal by those who advocate functional constituencies, grouping the electors not according to their dwelling but to their work. On this plan, miners, shipbuilders, teachers, and all other workers would elect representatives from their own ranks and the Parliament would be the combination of these groups. Every Member, it is urged, would thus have expert knowledge of some occupation; to-day the candidate appeals to electors of many different occupations and may be able to impress them simply by his talk and manner, without any real knowledge. But the present Parliament is by no means composed of such people. Some there are, no doubt, who possess little knowledge of any kind; on the other hand, scarcely any problem arises on which there are not some Members with expert knowledge. Among the Conservative Members are many with first-hand knowledge of controlling large businesses or estates; in the Labour Party many with experience of a wage earner's life; in all parties, lawyers, journalists, doctors and people from academic life. In some debates this becomes very plain and Members are inclined to think of their own professional and industrial interests to the neglect of other workers. Here, indeed, lies the chief defect of the functional plan—that it would aggravate the sectional spirit. When the miners are electing their representatives, one candidate might say "I recognise the problems and needs of our industry; but on this or that point we should not press our case; there are other workers to be considered." The electors would be inclined to reply "That is true; but they elect their representatives to look after their interests; we must choose someone who will press for our interests all the time; for if we do not, no one else will." Human beings are not unconquerably

selfish; but the effect of a functional system of election would be to encourage selfishness. Functional, or "Corporative," Assemblies were frequently advocated by Fascists, who met this objection by saying that the Government would see that each group in the Assembly remembered the over-riding interests of the State. But if the Government controls the Assembly, the Assembly does not control the Government; it is not a Sovereign body but can only advise the Government, which must either be elected from geographical constituencies or not at all. Put in this way, the functional system is merely a device to shift power out of the hands of the people. Experience bears this out; the Corporations of Italy in no sense enabled the people to control the Government; they were pieces of machinery through which an unelected Government controlled the people.

PROGRESS OF AN ELECTION

It does not appear, therefore, that any decisive case has been made against the present system of constituencies. But before the results can be called satisfactory the progress of an election must be examined. The Prime Minister, either when he thinks fit, or when the five-year limit has nearly expired, advises the Queen to dissolve Parliament, and the advice is taken. Writs are then issued to the Sheriffs and Mayors, requiring them to conduct the election; the bulk of the work is done, in their names, by permanent Local Government officials acting as Deputy Returning Officers. A week is fixed for nominations, and during this period the candidates must present themselves to the Returning Officer, equipped with a nomination paper signed by ten voters in the constituency, and with a deposit of £150 which they will forfeit if they get less than one-eighth of the votes cast. Candidates often bring many nomination papers as a sign of their popularity and a precaution lest some technical irregularity should make one invalid. It is possible to insure against losing the deposit, and when this has been done the candidate's supporters can borrow the money. Usually six or seven per cent. of the candidates at a General Election forfeit their deposits. If only one candidate should be nominated he is declared elected forthwith; this is likely to happen in a small number of constituencies where experience has shown that one party invariably wins; in the remainder a poll is held ten days after the last day for nominations.

Meanwhile the campaign has been in progress ever since the date of Dissolution was known. Each candidate is allowed one free postal delivery to every elector, and by this means sends out his Election Address, a four-page folder bearing on the outside a photograph, personal details and a list of meetings to be held;

inside is a statement of some 1,000 words outlining the candidate's policy and the defects in those of his opponents. The electors react in a variety of ways; many read the Address and allow it to have some influence on their opinion; some use it as fuel, or wrapping paper, or leave it to lie unopened. The sending out of the Address involves much work in envelope addressing, on which a keen party organisation starts well in advance, so as to free its helpers for other work. In charge of all their labours is an agent appointed by the candidate and responsible for seeing that the electoral laws are kept. The party organisations in many constituencies maintain full-time agents who manage both the elections and the party activities at other times. The agent and his subordinates arrange for the display of posters throughout the constituency, the establishment of committee rooms in each district, the distribution of leaflets and the hiring of meeting-halls.

The local organisation keeps in touch with the national headquarters of the party, from whom comes most of the literature used in the campaign. Tours are arranged for the chief figures in the party so that their help shall be brought to bear in the marginal constituencies where the fight is keenest. The national organisations also arrange the radio and television programmes which play an increasingly important part in modern elections; these facilities are made available by the B.B.C. to any party which puts fifty or more candidates into the field.

The candidate is deluged with letters which, since his party's policy can be learnt from the Election Address, usually ask his opinion on non-party matters. What is his view of Sunday amusements? Will he support or oppose vivisection, voluntary sterilisation, relaxation of the licensing laws, taxes on cats, compulsory inspection of monasteries,¹ and many other proposals. If he is wise he will answer all these queries, for the elector will be less annoyed by a refusal of his request than by neglect of his letter. Much of the candidate's remaining time will be spent at meetings. In the daytime he can catch factory workers at the dinner hour, or, parking a loud-speaker van in the street, can address housewives even though they stay indoors. At the end of the day the number of meetings grows—at street corners, in open spaces, and inside halls. The candidate must speak at as many places as he can, and while he moves from one to another his supporters must keep the meeting going. Nor will his audience be satisfied with a speech; they will expect him to answer questions, and sometimes he will spend half his time at the meeting on this task. Questioners may be simply seeking for information, or, particularly at open-air

¹ This sounds improbable, but is within the writer's experience.

meetings, they may heckle—that is, put questions which they hope will extract some damaging admission or expose the candidate's ignorance. Heckling is a legitimate practice and an exacting test; the candidate who knows his case need not fear it; on the contrary he will welcome it since a good answer wins the sympathy of the audience. The questioning can degenerate into rowdyism; the questioner may shout one question after another without waiting for an answer; there may even be deliberate attempts by groups in the meeting to shout the speaker down and end the meeting in violence. In some districts there is an evil tradition of disorder, but an able candidate will not usually have much difficulty. If, however, he has an arrogant manner; if he gives the audience to suppose that he despises them; above all, if he is reluctant to answer questions, he will soon turn the most placid assembly into an indignant and vociferous crowd.

But with all this effort, only a small proportion of the electorate will be reached; in very many constituencies less than a tenth of the people go to meetings. Election workers are agreed that contests are won or lost "on the doorstep." From the beginning of the campaign the candidate's supporters go up and down the streets, from house to house, asking the voters where their sympathies lie. Little time is spent trying to convert opponents; that must rather be done between elections. The election canvasser's duty is to locate the supporters of his party. If some voters are doubtful, the canvasser will make a few points briefly, and leave a leaflet; if some have special points on which they wish to be reassured, a note will be made and the candidate himself will call. Canvassing, like much political work, is exhausting, and, despite a few amusing encounters, monotonous; but it is a valuable factor in the preservation of a healthy political life. The sensible candidate or party worker, who keeps his ears and his mind open, learns from canvassing, as from no other source, the wishes of the people. He will not, as a rule, be asked to state the general principles and policy of his party, but to discuss some problem in which the voter has a personal interest. "Why is my rent so high?" "When shall I be able to get a job again?" "What sort of a chance in life does your policy offer to my children?" "My husband was killed in the war; what can you do to stop wars in the future?" A confident answer that everything will be put right will not serve; the elector wants to know what are the difficulties in the way and how far they can be overcome; in effect, does the would-be M.P. know the problems of the people he proposes to represent, and can he discuss those problems sensibly? If the candidate cannot pass this test he has missed his vocation. The direct contact of canvassing

can save the politician from elaborating far-seeing plans which neglect immediate issues; if the knowledge gained is properly used the programmes of parties can be kept close to reality.

Some electors shut the door on the canvasser as soon as they learn that he is not of their party; but often even opponents will listen or take a leaflet to read, saying that "It is nice to hear both sides." This remark is the stamp of a politically civilised person, and the frequency with which it is heard is a good augury for the future of liberty in this country.

If the canvassers have time to complete their work, its fruit is a copy of the Voting Register, in the agent's hands, with a full record of "Fors," "Againsts" and "Doubtfuls." When Polling Day comes the organisation works to ensure that all known supporters vote. Cars lent by friends are used to bring in the infirm, the removals, and, toward the end of the day, anyone who can be persuaded. The poll is open from 8 a.m. to 8 p.m., or 7 a.m. to 9 p.m. if any candidate has asked for such an extension. Each of the polling stations is cared for by a Presiding Officer and assistants, with a policeman in attendance. The intending voter gives his name and address, and his right to vote is checked from a copy of the Register. He is then given a voting paper, retires to a booth to put a cross against the name of the candidate he supports, and thrusts the paper into the Ballot-box. As he leaves the station, the party workers will ask him what his number on the Register is; thus lists of those who have voted are compiled, and sent to party Committee Rooms, where the workers concentrate on sending messages to known supporters who have not yet voted. The secrecy of the Ballot is rigidly preserved; many voters announce their sympathies openly, but none is obliged to do so. A voter may refuse to answer a canvasser; he may even promise to vote for Mr. Y, ride to the poll in the car of one of Mr. Y's friends and there vote for Mr. Z, and no one will be the wiser. There is a number on his voting paper but it is not the number against his name in the voting register. That latter number (the "polling number") will be pencilled by the Presiding Officer on the counter-foil of his voting paper. So a comparison of voting-papers, counter-foils and register would reveal each voter's choice; these documents, however, are only brought together when it is proved that unqualified people have secured votes by impersonating someone else, and a legal scrutiny is demanded. Impersonation is difficult to-day because of the provision of postal voting for those whose work makes it likely that they will be absent on polling day.

The candidate spends Polling Day touring the constituency, encouraging his workers. When the poll has closed, interest shifts

to the Town Hall or other public building where the votes are counted. This is done under the supervision of the Returning Officer, while the candidate and the people whom he has appointed scrutineers, are alert to see that no mistakes are made, and to argue about spoiled papers. A paper is spoilt if the voter has put on it other marks than those legally required, or has marked it so clumsily that his intention is not clear. The final decision, whether a paper is spoilt, is made by the Returning Officer or his deputy. If the first count shows only a small majority, there will be recounts, till, in the early morning, the Returning Officer declares the final result. Winners and losers make short speeches to the crowd assembled outside, and the election is complete.

Such, at least, is the campaign in an urban constituency. In the countryside there is the same process, but the excitement, however great, is not so obvious. There will be small meetings in villages and long journeys for the candidate; the influence of landlords and employers will be greater. The assembling of votes for the count will take longer and the results usually appear on the following afternoon. A wintertime election in the North of Scotland is a grim task for the party worker, and the elector cannot hope to see much of his candidate.

Since there is so much work to be done, much money is spent. There is a legal maximum expenditure, determined by the number of electors in the constituency and by its nature, a larger sum being allowed in county constituencies than in boroughs. The agent has to submit accounts shortly after the election to show that he has not exceeded this limit. "Corrupt" practices—*e.g.*, bribing or threatening voters, are heavily penalised, and the less serious "illegal" practices, *e.g.*, hiring cars to carry voters, involve large fines and the disqualification of the offender from voting or standing at any Election for a period of years. When a successful candidate is believed to have broken the law his opponents may bring a Petition, and the case is heard and decided by two judges. Petitions, however, are rare, and successful Petitions still rarer. The electoral laws, in which an agent needs to be expert, have removed the most serious of the abuses which were common in the 18th century; and the advantage of the wealthy candidate is less than formerly. The total sum that may be spent on an election is limited and most parties can now afford to spend up to the legal limit. The number of cars which may be used on polling day is also restricted. A person who intends to be a candidate can, however, for years before the election, give freely to all the local charities, football clubs, outings and the like; so long as he calls himself only *prospective* candidate, all this need find no place in his election expenses. The central

organisation of a party may cover the whole country with posters; so long as they recommend the party in general and not the particular candidates in each constituency, they are not part of any candidate's legal expenses. Some of these practices are inevitable; there are few activities, political or non-political, in which the possession of wealth does not give an advantage. To-day, not only is the poorer party at a disadvantage, but the non-party candidate is even more handicapped. Such "independent" candidates are usually people of means, or else well-known and liked in the district and so able to command the services of many friends.

ELECTORS AND ELECTED

Even the shrewdest observer can give no certain answer to the question, How do the electors make up their minds how to vote? About one fifth of them do not vote at all. Some are prevented by illness or absence; long hours of work and great distance from the polling station may make voting so difficult for some that only the most zealous of them will attempt it. Some are too old to care very much; others, particularly the younger electors, are more interested in sports and social activities. Some do not find themselves sufficiently in sympathy with any candidate to wish to vote. There remain those who, without any of these excuses, cannot be bothered to think about politics and do not believe it will make much difference however they might vote.¹ Those who do vote are influenced by many factors. Some vote as their parents did, though this is less common than formerly; sometimes a tradition of voting one way spreads over a whole district. Some vote for the candidate they think will win; some vote against the Government, whatever its nature, because life has not gone well with them lately and they feel, rightly or wrongly, that the Government is to blame. These unthinking groups do not form a large proportion of the whole. There are the convinced party supporters, and finally the central mass who will hear the broadcasts, watch the television, read their newspapers, talk with their neighbours, and then use their own judgment. The size and variety of the electorate makes it impossible for the active politician to predict election results with certainty. He cannot afford to ignore any method of approach since each may be successful with some electors, and the uncertainty rouses in him an unjustified exasperation, particularly if he is defeated. For the electors are not foolish; 19th century opponents of votes for all declared that the people would follow demagogues who promised a new heaven and a new earth without

¹ This is common in constituencies where one party regularly secures a large majority.

regard for facts; but the prophecy is unfulfilled. To judge from results, the elector to-day likes best the party which seems to know its own mind; which has a definite, if small, programme, on which it is united. Now this is by no means a bad criterion, though it is insufficient. The commonest defects in the elector's judgment are two: first, he does not sufficiently consider what the results of a given policy may be in eight or ten years', rather than two or three years' time; second, his better judgment can be upset by the sudden introduction of some new issue. These are exactly the weaknesses to be expected, when one considers that the majority have their livings to get and their children to mind, and cannot all be eager students of politics. The electors' judgments are liable to error; but it is the error of sensible folk with limited opportunities for consideration, not the blundering of fools.

The House of Commons which emerges from the election contains, as has been shown, representatives of very many walks of life. It also contains people of very different character. A few, who have been attracted by the prestige of being an M.P., find the work more than they expected and take little part in it; there is nothing in the law to oblige an M.P. to attend the House at all, but the continual slacker is unlikely to be returned again. Even his party supporters will feel insulted and look round for a new candidate at the next election. The conscientious M.P. has much to do, every day there will be letters from his constituents asking for his advice about pensions, rents, taxes—all the points at which the citizen comes into contact with the law. If the Member is well-known and respected, he may even be asked to reconcile husbands and wives. By diligent attention to these individual requests he may win such a hold on his constituents as will stand him in good stead even when opinion is unfavourable to his party. When Parliament is sitting, two or perhaps more mornings a week will be occupied by committee work, and for the rest of the day the Member will be either in the Chamber or elsewhere in the House at the disposal of the Whips. At the week-end, and during the Parliamentary recesses, his constituents will expect to see him at local functions and party meetings. The House is thus far less of a club than formerly; membership of it has become very nearly a full-time job, though many M.P.s still do some outside work. This is possible for lawyers, journalists, company directors and others who can, at need, vary the amount of work they do. If the reform suggested in Chapter X were carried out the tendency towards full-time employment in political work would be strengthened. Payment of M.P.s is therefore essential if the House is not to be composed predominantly of wealthy people. A yearly

salary of £400 was first granted in 1911; this has since been increased in view of the rise in prices and the growth of Parliamentary work. The Member has also the privilege of free railway travel between the House and his constituency; otherwise the Member for Inverness would be at a hopeless disadvantage compared with the Member for the Cities of London and Westminster. Once elected, the Member cannot resign his seat, but if he accepts a salaried office from the Crown, other than a position in the Ministry, he is automatically disqualified and ceases to be a Member. Those who wish to resign, apply for the office of Steward of the Chiltern Hundreds, or of another Crown estate, the Manor of Northstead. These posts involve no work, and the newly appointed Steward, freed from the Commons, resigns his Stewardship next day. Vacancies also occur when Members die, or are created Peers, or appointed to judgeships, and other public offices. The Whips of the party concerned, or the Speaker, then see that a writ is issued ordering a by-election. There may be several of these each year, and they give Government and Opposition a useful indication of the movement of opinion in the country.

In conclusion, it should be noticed that membership of the Commons is an honourable and respected occupation. This fact impresses American observers who contrast it with the general attitude to politicians in their own country. The ancient traditions of the Constitution and its connection with the Crown shed a certain dignity on everyone connected with Government. The control of finance, and the character of the Civil Service, make it impossible for the politician to enrich himself out of public funds. The acceptance of bribes from outside, and the subtler forms of corruption cannot flourish, for the highly organised party system makes it difficult for the Member to sell his allegiance elsewhere. Above all, there is the knowledge that the public will not greet an exposure of corruption, even on a small scale, with a shrug of the shoulders, but with execration. So though a few scoundrels have had Parliamentary careers, there is no natural attraction of scoundrels into the House; there are more profitable openings for them elsewhere. Nor will the man who wants a comfortable income find that Membership of the Commons is the easiest road. A high standard is set by the conscientious Member whom his constituents can call in the fullest sense "our Member" the link between them and their Government, the person through whom they can exercise no small part of their rights as citizens.

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CHAPTER XIII

PARTY GOVERNMENT

The Reason for a Party System
Capitalism and Socialism
The Conservative Party
The Labour Party
Right and Left
The Liberal Party
The Party System

THE REASON FOR A PARTY SYSTEM

The description of British Government so far given has required frequent mention of political parties. The law does not mention them, their nearest approach to official recognition is in the rules for the formation of Committees of the House of Commons. Yet without them the whole nature of the Constitution would be changed, and many of its conventions would become unworkable. The relations of Parliament to the Government on the one hand, and to the people on the other, are governed by the party system. The essence of this system is that people who find themselves in agreement on major matters of policy should unite in organised bodies to secure the return to Parliament, and to other elected assemblies, of Members who will work for an agreed policy; and that these Members, sinking minor differences, should vote and act together. Party politics are based on two undeniable facts. First, that where men and women are allowed to think freely, they disagree: they are born with different intellectual capacities; environment gives to each his own experiences, prejudices and opportunities for study. Their opinions are therefore based on varying amounts of knowledge, mixed with various prejudices and applied with greater or less wisdom; so, in a free country, there will be more than one party. Second, that no one person can do all the work of Government, nor can he hope to find many who agree with him on every topic: the individual's only chance of influencing the Government is to ally with those of similar opinions and frame with them a policy representing the highest common factor of agreement; so there will not be as many parties as there are citizens.

Party politics, in one form or another, have invariably accompanied liberty; yet they are one of the commonest objects of criticism. On the one hand it is said that they divide the nation; on the other that they mass individuals into groups and stifle independent thought. Examination of the form taken by the party system in

Great Britain will enable the validity of these criticisms to be tested.

CAPITALISM AND SOCIALISM

It is first necessary to discuss the frequently used terms Capitalism and Socialism. In the Capitalist order of society most of the land, factories and other equipment for the production of wealth are owned by private persons, using their ownership to secure profit for themselves. These owners form a minority of the population; the majority live wholly or mainly by their work; there is legal liberty for everyone to work as he pleases, to save and to acquire property. Defenders of this system argue that the possibility of becoming better off acts as a stimulus to hard work and thrift, so that the total of wealth is increased; that since those who manage industry are the owners of it they will do their best to see that it produces what the public wants; for it is by such production that profits are made. Thus Capitalism might be said to take the powerful desire, implanted in everyone, to do well for himself and his family, and enlist it in the service of abundant and efficient production. Supporters of Capitalism will admit that it often falls short of its ideal; that the inheritance of property allows some to be well off without effort and places incompetent people in positions of power; but they will urge that these examples are not sufficiently numerous to condemn the whole system. At the other end of the scale, many people are born too poor to have much chance in life; they cannot save a great deal, their education is limited, the legal freedom to become rich, if they can, has little significance for them. This is answered by pointing to the achievements of Capitalism, particularly in the last century, when it enormously increased the wealth of mankind; out of this wealth it has been possible to provide public education and many other services which help to remove social injustice. Capitalism, in the view of its defenders, has rescued mankind from the grinding poverty of the past, has raised the standard of comfort, and provided increased opportunities to all; it can continue to do this work by using the incentive of private gain. The system which now produces wealth is highly complex; would it not be thrown into disorder if it were taken out of the hands of those who now own it, to be run by public officials? Will it not be best to preserve the main features of Capitalism? As wealth goes on increasing the social services will grow likewise; so Capitalist society will become rich enough to afford the remedies for its own defects; but if, in a premature attempt to relieve poverty and injustice, the ownership of property and the stimulus of private gain are tampered with, the production

of wealth will slow down and the reformers will defeat their own ends.

Socialists advocate a form of society in which the equipment for the production of wealth would be owned by the whole people and controlled in accordance with an agreed plan; the wealth itself would be more equally shared, and everyone would have an equal opportunity to develop his talents. Instead of two classes, owners and workers, there would be a classless society in which all would be workers, and all, collectively, owners. In reply to the arguments given above they claim that the defects of Capitalism have been understated; that undeserved wealth and undeserved poverty are the rule rather than the exception. While admitting the growth of wealth under Capitalism they point out that the proportions in which it is shared do not greatly alter; the working man is better off than his grandfather but feels himself poor in comparison with the more fortunate members of the community to-day. They further contend that the growth of wealth will not continue; that the pursuit of private profit has led to monopolies and other schemes to restrict production by which each group of capitalists hopes to win something for itself. By this reasoning, private ownership is no longer a stimulus but a hindrance to production. Meanwhile the management of industry passes into the hands of salaried employees; might not these serve the community at least as willingly as they now serve private persons, the effect of whose ownership is to prevent the abilities of managers and other workers from being fully used? Thus, in the Socialist view, the production of wealth becomes a disorderly scramble, the fruits of which are restriction of production, unemployment, slumps, and—when capitalists try to solve their difficulties by acquiring and protecting overseas markets—wars. Does it not therefore appear that Capitalism has done its work in showing the possibilities of wealth production, but handles these possibilities so clumsily that it should now give place to a planned Socialist Commonwealth?

Whichever of these views is correct, the merits of Capitalism will be plainest to those now enjoying tolerable comfort, and Socialism will appear especially desirable to those with the closest experience of Capitalism's defects. The argument becomes not an academic discussion but a conflict between classes. Consequently it is clouded with abuse, Socialists accusing their opponents of callousness and ignorance of the lives of the poor, and being in their turn attacked as unpractical dreamers or discontented revolutionaries, anxious to share the wealth that others have created. The reader, if he wishes to form his own judgment, must pierce this cloud and endeavour to decide, on the evidence presented by

world events, whether Capitalism will destroy itself or whether its powers of recovery will deliver mankind from present difficulties and lead it to greater prosperity. The sensible person refrains from calling his opponents fools; neither is he content with the easy phrase, "There is much to be said on both sides"; having examined the evidence he gives his support resolutely to the side which seems to him to have the better argument.

Against this background the party programmes can be set.

THE CONSERVATIVE PARTY

This is the usual designation; the official name is *Conservative and Unionist Party*.

Human beings often show an unwillingness to abandon customs and ideas which they have respected for a long time. This natural conservatism, praised by Edmund Burke in his horror at the French Revolution, is claimed as one of the bases for the Conservative Party's philosophy. It appears particularly as a love of traditional forms and solemn ceremonies, so that Conservatives dislike criticism of old institutions such as the Monarchy, and emphasise the duty of loyalty to the Queen and to the State which she personifies. Since one of the chief things to be "conserved" to-day is the structure of Capitalism, the great industrialists are joined to the old aristocracy in the Conservative ranks. This union, encouraged by Peel in the second quarter of the 19th century, was indeed the making of a Conservative Party as distinct from the old Tory party of the landed classes. The Tory element remains, forming the Right Wing of the party; a few of these, called "Diehards," are inclined to regard all change with disfavour. Conservatism, however, means caution, or perhaps reluctance to change, not refusal; the majority of Conservatives urge that Capitalism must be justified not only to the rich but to all classes; democracy should be preserved and the social services extended. They point out that the great Conservative Disraeli extended the franchise in 1867 and was especially interested in social services. Nor, in their view, must support of Capitalism mean complete abandonment of industry to private enterprise; the Government should keep watch and, where necessary, give assistance in such forms as tariffs, subsidies and marketing organisations. Nationalist feeling and the influence of industrialists combine to make the party favour the protection of home industries by taxes on foreign goods, as a remedy for unemployment. In the 20th century this proposal has taken the form of Imperial Preference—i.e., permission for goods from British territories overseas to be imported at specially favourable terms—and extension of inter-Imperial trade. The term "Unionist" meant

in the last century one who was opposed to Home Rule for Ireland; a body of Liberals who left their own party on this question were called Liberal Unionists but were later absorbed in the Conservative Party; the name is now used to describe the Conservative attitude to the Empire. This attitude makes the party somewhat doubtful of international ideas; it is a Conservative maxim that a strong British Empire is the best guarantee for world peace.

The party draws its support from the rich and from those of moderate incomes who feel that Socialism threatens their security; also from the countryside, where tradition is stronger than in the towns. Between the wars the Conservatives had a majority in the House of Commons except for nine months in 1924, and the period between June 1929 and November 1931; and even in the former period they were the largest party. In 1940, although the Conservatives held a majority in the Commons, a Conservative-Labour-Liberal Coalition was formed which lasted until the defeat of Germany; at the General Election of 1945 the Conservatives were defeated and went into Opposition, returning to power after the Election of 1951, and retaining it in 1955.

THE LABOUR PARTY

The Labour Party is the political expression of a working-class movement which can be seen developing from the time when the Industrial Revolution created large masses of urban workers, divorced from the occupation of land or ownership of means of production. This movement manifested itself in Trade Unions and in Co-operative Societies, and in the great Chartist agitation of the mid-19th century, which demanded universal male suffrage. But it was not until the franchise was extended in the late 19th century that an effective political party could arise. The Labour Party was formed in 1900, and from that date has grown rapidly; it emerged from the General Election of 1922 as the second largest party.

Labour proposes to use the democratic system of government so as to transform Britain from a Capitalist to a Socialist country. Its programme therefore contains measures to socialise—i.e., to bring under the community's ownership and control—some of the major industries, and, to some extent, the land of the country. At the same time, it is intended to exercise a general supervision over industry, to encourage efficiency, and, where need arises, to extend the area of public ownership. The nationalisation of the Bank of England, which was effected in 1946 will, together with certain other measures, give general control over finance and investment. In agriculture, Labour proposes so to control the importing and

distribution of products as to assure the farmer of a guaranteed price for his products; in return, the farmer must provide efficient management and satisfactory conditions of labour.

By these means the Government would acquire a predominant influence over the national economy. Labour argues that this influence will be used to break the hold which restrictive private monopoly has been obtaining over industry, and to promote the full use of the technical possibilities of production which abound to-day. Further, the power of the Government to direct investment and to influence the location of industry could be used to prevent the recurrence of the mass unemployment and "Distressed Areas" of the nineteen-thirties.

The Labour programme contains—as do the programmes of all parties—measures for improved housing, education and social security: but Labour claims that the Conservatives cannot proceed far in this direction because of the limitations of the Capitalist system.

Labour's view of the Empire is that self-government should as soon as possible be extended to those territories which do not yet enjoy it; and that preparation should be made for this by the development of colonial resources, the extension of social services and the encouragement of native trade union and co-operative activity. In international affairs, Labour's ultimate goal is a World Socialist Commonwealth; while its immediate aim is the strengthening of the bonds between the United Nations and the establishment of that collective security which the League of Nations failed to achieve.

The student of party programmes will observe that the avowed differences are mostly with regard to the ownership and control of production. In overseas affairs the professed policies are similar though practice has varied a good deal: the elector has to judge whether Capitalism or Socialism is more likely to produce the desired results, and, perhaps, which party is by its nature, personnel and record the more capable of progress.

Labour finds its supporters among wage-earners in the towns, and, to a much less degree, in the countryside. A number of middle-class people, who think that Capitalism's uncertainties are the real menace to them, also support Labour; and from all walks of life come persons who have adopted the Socialist view of society. The organisation of the party illustrates these facts; it is a Federation including Trade Unions, Socialist Societies such as the Fabian Society, and individual members. Its structure is more elaborate than that of the other parties, and the resolutions passed at its annual Conference, to which come delegates from all the affiliated

bodies, determine its policy. The Co-operative Movement has a political organisation of its own which, in alliance with Labour returns a small group of "Labour and Co-operative" M.P.s; in Parliament, these form one party with Labour.

Before Labour had obtained a majority in the Commons, it had formed two Governments, one in 1924 and another from 1929 to 1931, when it was the largest party in the House. During the second period the great slump occurred and Labour had to choose between introducing Socialist remedies at the risk of defeat in the House and trying to administer a Capitalist system in which it did not believe. The latter course was taken and the resulting difficulties caused the Prime Minister, Mr. Ramsay MacDonald, to resign and form a Coalition with Conservatives, some Liberals, and a few who followed him from the Labour Party. These events were taken by some as proof of the need for a clear Labour majority to introduce Socialism, by others as proof of Labour's incompetence. The party suffered heavy losses in the 1931 Election and in 1935 only secured 154 seats. In 1945 Labour won its first complete victory with 393 seats out of 640. At present it is in Opposition with 279 seats out of 630.

RIGHT AND LEFT

These two parties face each other as the chief parties of the Right and Left; that is, of reluctance, and enthusiasm for change, respectively. It is a feature of Right parties that their members hold together; as there is no intention of fundamental change there is less matter for argument, and the Right naturally attracts, in addition to keen and convinced supporters, those who, taking life as they find it, do not think very much about politics. The Left has to make its case for great change and, when it comes to framing a detailed statement, disagreement arises; further, if the Right has the addition of the unthinking, the Left draws those who, for a variety of reasons, are dissatisfied with things as they are. The Right is therefore liable to suffer from lack of vision, the Left from an over-abundance of ideas, of very varying usefulness, not easily arranged into an ordered programme.

To the left of Labour stands the small *Communist Party* which in 1945 won two seats which it has since lost. The Communists advocate Socialism but believe that the conflict between classes is so acute that an attempt to introduce Socialism by democratic methods would be met by the use of force on the part of the rich. They therefore hold that an effective Socialist movement must prepare to meet force by force, and to establish a dictatorship of the working-class, until opposition is destroyed and democracy can

be restored. Labour seems to them not to have understood the real nature of the class conflict, and they consider many of its leaders ineffective. In the past, however, they have sought affiliation to Labour; the proposal provoked considerable dispute between the Right and Left Wings of Labour, but was defeated, the majority holding that Labour could not associate with a party which envisaged the use of dictatorship.

The *Independent Labour Party* was once affiliated to the Labour Party but severed the connection after 1931. The party considers Labour to be insufficiently Left and the Communist party to be over-influenced by the wishes of the Government of the U.S.S.R.

THE LIBERAL PARTY

Historically, the Liberals inherit the tradition of resistance to arbitrary Government which animated the 17th and 18th century Whigs. They were accordingly led to emphasise the authority of the people, and during the 19th century there is a gradual change from aristocratic Whig to democratic Liberal, working to secure the extension of the franchise. As opponents of governmental restraint they were attracted to *laissez-faire*, and in the mid-19th century represented the trading and manufacturing, as against the landed classes. The popular element in Liberalism, however, has caused the party to advocate social reforms which conflicted with pure *laissez-faire*. Dislike of oppression has shown itself, at different times, in Fox's opposition to Burke over the French Revolution, in Gladstone's efforts to solve the Irish problem, in the sympathy shown to nations struggling for freedom, and in the desire to protect minorities.

To-day, Liberals consider that the Capitalist-Socialist issue is not as important as is often supposed. The Conservatives' fondness for aristocracy and for tariffs and Labour's plans for State control all appear to Liberals as dangerous to the liberty of the individual, which it is the historic duty of Liberals to preserve. While rejecting Socialism they advocate considerable reforms in Capitalism. They are prepared to socialise some industries if it can be proved that this would increase efficiency, but do not regard socialisation as essential for the proper arrangement of society. The dividing line between public and private enterprise has been shifted in the past and can be shifted again; it is a question of practicability and convenience, not of principle. Prominent members of the party have made detailed studies of industrial organisation in order to demonstrate the number of improvements which could be made without raising the main question at issue between Socialists and anti-Socialists. They further consider that social services could be

extended beyond the limits which Conservatives think desirable, and they stress the need for improved housing and education. To the Liberal the Conservative appears too much under the influence of the rich, and therefore unwilling to help the mass of the people, while Labour is too much influenced by the Trade Unions, and led by its Socialist theory to ignore the reforms which are immediately practicable. Liberals claim that they, avoiding these defects, represent not a single class but the whole nation; not tied to a theory they can consider every proposal on its merits. They oppose the tariff policy of the Conservatives and on immediate problems in the Imperial and foreign field take a view very similar to that of Labour.

From 1906 till the outbreak of the 1914 War the Liberals ruled and achieved a large measure of social reform, notably social insurance and old age pensions, the memory of which still retains many supporters. In 1916 one section of the party, under Mr. Lloyd George, formed a Coalition with the Conservatives which lasted till 1922. The party was re-united in 1923 but found itself outstripped by Labour. In 1924 they suffered a severe defeat from which they have not recovered. At the 1931 crisis all, except a few under Mr. Lloyd George, joined the National Government, though many of these left it shortly afterwards. There is to-day an official Liberal Party, and a group of "National Liberals" who are in close sympathy with the Conservatives. Each of these parties is represented in Parliament by about half a dozen Members.

The Party is supported by those of moderate incomes and by a lesser proportion of both the rich and the poor. In some districts there is a strong Liberal tradition, often associated with Non-conformity. It is probable that many people who hold Liberal ideas feel that they can now make them of more effect by supporting the Conservative or Labour Parties and bringing a Liberalising influence to bear on their policies. The Liberal Party claim that Proportional Representation would allow the strength of Liberal feeling in the country to be fairly expressed; but unless this reform is introduced, Parliaments like those elected in 1924 and 1929, when no party had a clear majority, will not be common in future.

THE PARTY SYSTEM

It appears, then, that party politics in Britain are characterised by the existence of two great parties, rivals for Government, and a third of lesser, but considerable size. These parties have local organisations in nearly every constituency, responsible for choosing the candidates and conducting propaganda with assistance from a Central Office. Most of the agents in the constituencies and staff at

the centre are paid full-time workers. Subscriptions from rich members form a considerable part of the funds among Conservatives, a less proportion among the Liberals and only a small sum for the Labour Party. These gifts are supplemented by small subscriptions from the rank and file, the bulk of Labour's funds coming from those Trade Unionists who pay the "political levy" which makes them affiliated members of the Party. Much work, however, is done without payment; indeed, one of the admirable features of British politics is the large number of men and women who will do hard, and sometimes tedious work—canvassing, envelope-addressing, organising social activities—week after week, for no other reason than that they believe in their party's principles.

Those who complain that parties divide the nation urge that the ideal Government would combine the best men of all shades of opinion; the process of finding the highest common factor of agreement, by which parties themselves are made, would be extended till all could act together. Thus the strife of parties would vanish and citizens would work together in harmony for the common good. The same sentiment sometimes expresses itself more prosaically as a demand for "Business Government": the shareholders of a business do not arrange themselves in parties; why should citizens do so? To this criticism, the party programmes provide an answer; they are not lists of measures, each of which can be considered apart from the rest. Socialism, for example, may or may not be a practicable policy; what is certainly not practicable is to distribute wealth on Socialist principles while the ownership of land and industry remain as at present. The Conservative policy towards industries is based on the assumption that private persons will continue to control them. One who believes that private enterprise and private profit are essential to progress, and one who believes them to be the chief cause of our difficulties, cannot frame an agreed policy. An appeal to the disputants to "put country before party" begs the question, for each believes his policy to be the best for the country, and the greater his zeal for his country, the greater his anxiety to get that policy adopted. A Government formed from men of all parties will be subject to constant disagreement within itself; its policy will be vacillating, and, in the endeavour to please everyone, will please no one. Coherent and effective policy can only come from a Government whose members are agreed on main principles—that is to say, who belong to one party. The members of a such a Government might be lost in mutual admiration or encouraged by their majority to enact measures gratifying to their most extreme supporters, were it not for the constant criticism of the minority parties. The largest of

these is known as Her Majesty's Opposition, and the title indicates that Opposition as well as Government has a function in the Constitution. That function is to criticise the Government, to keep it from sloth and extremism and to put before the people an alternative policy so that, if they are dissatisfied, they can, without violent upheaval, change their Government at the next Election. The Opposition should not oppose every Government proposal, nor condemn the Government for not performing the impossible; but, as party differences are based on fundamental disagreement, there will not be many agreed topics. Since, in Britain, the people are free to vote the other way next time, there is a powerful check on merely factious obstruction—the knowledge, in the minds of the Opposition, that they may soon be the Government, and will have to justify their criticisms by doing better themselves. Responsible Opposition, of the kind required in Britain, demands considerable knowledge of facts and the Leader of the Opposition needs to maintain a kind of office, comparable to that of a Cabinet Minister, though on a smaller scale. In 1937 this need was recognised by the provision of a salary of £2,000 a year. The Leader of the Opposition does not thereby become a servant of the Government, but of the State and the people who compose it. It might well be argued that this salary should become, like that of a judge, a Consolidated Fund charge.

The demand for a Government which shall be "above party," therefore, is often based on an imperfect understanding of facts. Sometimes, however, it is more sinister. The party in power may be unwilling to face criticism, and, relying on the majority in the country which it has at the moment, may appeal to the people in such terms as these: "We have a great work to do; let us have done with the strife of parties and get a single united people behind the Government; then we can carry through our policy." If the majority is large enough, if the appeal is made with sufficient excitement of national vanity, and if the Government has its hand on the armed forces, then the minority parties can be destroyed. But the resultant Government is not above party; it is a party Government, carrying out a party policy without criticism to make it careful or opposition to check its extremists. The dictatorships of recent years provide a striking illustration. The Opposition is driven from constitutional to underground methods; and the Government, which would not meet criticism with reasoned defence, must combat conspiracy with secret police, concentration camps, executions and the other apparatus of tyranny.

The call for "Business Government" likewise springs either from misunderstanding or from a desire for dictatorship. The object of a

Board of Directors is to make profit for those who own the business. The citizens of Britain, however, are not owners of Britain, and a Government whose sole object was to benefit owners of property would be a party Government of the worst kind. It is arguable that if the Socialist conception of a classless society were realised, Government would be chiefly occupied in business administration of the people's property. Such is the form of Government envisaged by the Socialist William Morris in his *News from Nowhere*, and by Stalin for the U.S.S.R. under its 1936 Constitution. The U.S.S.R., however, has not yet fully realised either Socialism or democracy, and it is one of the most disputed questions of politics whether a classless society can be realised at all.

Coalitions between parties occur when great events cause the people to think afresh and to discover that the old issues are out of date. The 1914-18 war, and the problems leading up to the crisis of 1931 caused a fuller consideration of the Capitalism-Socialism issue. Of the questions which had divided Conservatives and Liberals—Ireland, the House of Lords, Free Trade, Social Insurance—some had been settled, while others appeared as aspects of the new problem. A series of Coalitions weakened the Liberal Party and made Labour the chief opponent of the Conservatives. Coalitions do not destroy the party system but give a new alignment of parties in accord with the new problems demanding solution.

The criticisms from the opposite angle, that party politics suppress individuality in politicians, are more useful. Though they do not constitute a complete case against the party system, they draw attention to certain dangers of which the party politician should be forewarned. First, the presence in the House of Commons of a majority supporting the Government means that ill-considered actions and unwise clauses in Bills can be defended without argument, by the simple use of voting power. The private Member on the Government benches may admit to himself that he does not like this piece of policy; that the Opposition's arguments are unanswerable; that his constituents are quite justified in writing indignant letters. But what if the Whips say, "The Government makes this a matter of confidence; if it is defeated there will be an Election"? The Member, at the worst, does not want to risk his own seat; more creditably, he might feel that the Government's policy is so much better than the Opposition's that he ought not to endanger it for the sake of one point. The Government majority is particularly objectionable to the Opposition when it is used to apply one of the forms of Closure. Yet if the Government had not this weapon it could not know from week to week, how long it would be in power; without the Closure it could plan no time-table

of work, as the Labour Government of 1929-31 discovered. Such inefficiency of Government provokes contempt for Parliament and for free discussion. The ordinary Members can make their voices heard if they insist on frequent meetings of their Parliamentary Party, where by discussion and vote the party's immediate policy and tactics can be determined; then the action enforced by the Whips will be that which a majority of the party has approved. If the Members act thus they are not the sheep to whom critics of Party Government liken them; they are people who, faced with the necessity of united action, impose the requisite discipline upon themselves.

Secondly, the loyalty of party supporters may become a disease. They hesitate to admit that their party has ever made, or might make, a mistake, lest opponents should seize on the admission and magnify it: for the same reason they will not allow any merits to their opponents. Should this disease become far advanced politics degenerate into factiousness and the ordinary citizen turns away in disgust. But the elector has the remedy in his own hands: moderate attention to public affairs will show him that no party is infallible, and, by his attitude at meetings and his reception of canvassers, he can show that he does not care for absurd partisanship. If the elector does this, the politician will soon realise that frankness and reason are required.

Thirdly, there is a neglect of certain questions because they are not party matters. Reform of the judicial system, marriage laws, control of amusements, are oft-quoted examples. Independent Members who might raise these questions are few, because it is difficult to fight an Election without the help of a party organisation. Indeed, since 1950 there have been no Independent M.P.'s, though the Liberals, with their small numbers and lack of cohesion, resemble a group of Independents. Some of the Independents elected in the past were persons of outstanding ability, and one may regret their disappearance. While, however, they may be a tonic for Parliamentarism, they cannot be its staple diet. A Parliament with a large number of Independents would suffer from the same defects as a Parliament composed of many small parties: the Government would be unstable, and the Independents, conscious that they could not be called upon to form a Government, would be irresponsible critics.

The Member has been described as the link between his constituents and the Government; the local party organisation is the link between the Member and his constituents. He cannot return to them for instructions on every issue; while they have the right to state what general principles they approve, it is his business

to apply the principles to the day-to-day problems arising in the House. The party programmes provide the general statements of principle between which electors can choose. The elector may complain that he does not fully agree with any party programme. But no one can expect to have all his own way; it is open to everyone to join the party in which he finds most to approve, and to take his share, with other party members, in the framing of policy.

In summary, the party system has the overwhelming merit of permitting both the Government to be strong and criticism of it to be vigorous; of allowing the majority to prevail and all sections to be heard; of providing a peaceable method for change of Government. While the defects of the system are undeniable, they can be lessened if the rank and file of party members become students of policy and not mere partisans, and if the elector equips himself with knowledge.

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CHAPTER XIV

GOVERNMENT BY THE PEOPLE

Democracy
Effects of Democracy
Growth of Fascism
Policy of Fascism
Communism
Fascism and Communism Contrasted
Conclusion

Now that the survey of Legislature and Central Executive is complete, the essential nature of British Government appears. The source of the power wielded by the Queen and her Ministers has been traced to Parliament and thence to the people. Britain is therefore classed among the democracies of the world, and so distinguished from the Communist U.S.S.R., from pre-war Germany and Italy and from a number of smaller States where various forms of Government prevail which the people cannot criticise or change at will. For the proper understanding of British democracy, a digression of some length will be necessary, comparing the democratic, Fascist and Communist philosophies. What is the exact nature of democracy? Is it fully realised in Britain? What explains the hold which anti-democratic Governments and ideas have exercised over men?

DEMOCRACY

There are five signs by which a democracy can be recognised. *First*, that all adults should have an equal share in choosing the people who are to carry on the Government. The power of the House of Lords and the unequal size of Parliamentary constituencies cause Britain to fall short of this ideal; but the former is not a conclusive or permanent check to democracy and the latter is such a defect as must creep in in course of time, and can be removed. *Second*, that a large number of citizens should take part in the actual work of Government. If they do not do this they will not so much govern themselves as choose between one set of masters and another; they will be unacquainted with the problems of Government, and their judgment of those who do govern, being uninformed, will be ineffective. The British Cabinet and Parliament cannot contain more than a tiny fraction of the citizens; but many more serve on local authorities and acquire valuable experience. In voluntary associations—Trade Unions, Co-operatives, Educational and Housing Associations, and political parties, the citizen

can learn how to make decisions, administer property and discover how some, at least, of the laws of his country work, and help to get them changed. The combined effect of these opportunities is considerable, and in this respect Britain does well, in view of the fact that she is a great State where the direct democracy of small Swiss cantons is impossible. *Third*, the will of the majority, acting through the Government, should be obeyed. Government by consent cannot mean that all citizens should approve of all acts of Government, and if the dissatisfied do not obey there will be no Government at all. While, therefore, a democratic Government must not use force as a substitute for consent, it has both a right and a duty to meet any defiance of its authority with all the force at its command. *Fourth*, the Government must allow all its subjects to criticise its acts; it must give regular opportunities for the election of a new Government, and freedom to all who wish to conduct propaganda and build up organisations which have as their object the peaceful conversion of opinion towards a change of Government. Minorities justifiably claim these rights in return for their obedience: if the rights are not granted there is no way of changing the Government peaceably, and, even if it represents the people at first, there is no guarantee that it will continue to do so. The present working of the British Constitution satisfies both this point and the preceding; it secures a Government which commands obedience but submits itself periodically to the people's judgment. *Fifth*, the economic and social structure must be such as to allow the previous conditions to be realised in fact as they are stated in law. The effect of economic and social factors on British politics has been noticed. The educational system, the method of recruitment for the higher ranks of the Civil Service and the Armed Forces, the influence of money at elections, combine to put a great proportion of power in the hands of a small section of the people.

EFFECTS OF DEMOCRACY

Democracy can be considered first as a method of Government—the method of consent, majority rule and free discussion. But the use of the democratic method creates something else—a democratic atmosphere; persuasion, argument, the power to present a convincing case are esteemed more highly than a display of force or the dictator's ability to make impassioned speeches where no one can heckle or contradict. This atmosphere of discussion is the most important of all the characteristics of democracy because it breeds among citizens respect for one another's opinions. 18th century Britain, for all its restricted franchise, had this mark of democracy. Government was in the hands of a few, but they con-

ducted it by discussion amongst themselves in Parliament; and from this centre ideas and argument spread to the unenfranchised. For this reason it was the easier to extend the franchise in the 19th century; those who received the vote took up a task with which popular discussion had already made them familiar.

The first merit of democracy is, accordingly, its civilising influence on those who practise it. The habit of discussion, developed in politics, extends to all activities; new ideas in sciences and arts can receive examination. The dictator, who cannot hand over power to another party if opinion changes, must see to it that opinion does not change. If, like Hitler, he has climbed to power by firing his people with the idea of racial purity and superiority to other nations, then any research into anthropology which suggests that there is no such thing as racial purity must be suppressed. If Government policy is based, as in the U.S.S.R., on a particular view of human history, then any discoveries about the past which cannot be fitted into that view must be thrust aside. The issue between dictatorship and democracy cannot be confined to politics; in every sphere of intellectual activity the question arises: "What is the purpose of this activity? Is it to discover the truth or to find evidence in support of the view already held by the Government?" Accordingly, dictatorship stretches its control over art, science and religion. As men continually underfed lose appetite so nations shut off from free thought lose the desire for it, and the dictator's task becomes easier and the rate of progress less. Such a tyranny, if not assaulted from without, can, like the Byzantine Empire, last for centuries without adding anything to human happiness or knowledge.

No Dictatorship, however, can alter the truth. If, for example, persecuting Jews does not make a nation better, the dictatorship which practises it will sooner or later face a disillusioned people who, having no other method of expression, must attempt revolt. Dictatorships, lacking the check of criticism, are likely not only to make mistakes, but to persist in them till they bring disaster. Democracy not only allows entry to new ideas but enables them, when they have convinced a majority, to inspire Government policy. Peaceful change is thus the second merit of democracy.

But discussion cannot find the truth unless the disputants have access to facts. In Britain, defenders and critics of the Government can use statistics of undisputed accuracy concerning trade, employment, taxation and the public welfare. If—and it is in Britain a fantastic supposition—the Government attempted to intimidate a Civil Servant into falsifying the figures, he has only to disclose the fact and the resulting scandal would defeat the attempt. The

servant of a dictator must, for the sake of his employment or even his life, produce such statistics as his master approves. Statistics can be misinterpreted or wrongly used in any argument under any system; but while the statistics of a democracy are in themselves reliable, those of a dictatorship are not. This third merit, superior honesty, appears also in the handling of money and appointments. Corruption and embezzlement of public funds together form an evil that has plagued all Governments from time immemorial; it is denounced in the Scriptures and those who practise it occupy a special place in Dante's *Inferno*. Aspirants to dictatorship declare it to be the chief feature of Parliamentary life; the whispered jokes with which a dictator's subjects console themselves, impute it to his officials. Democracy, however, has an antidote, the Opposition, to whom the discovery of bribery or false accounts will be a powerful weapon. Dictatorship can always prevent open scandal by getting rid of those who ask awkward questions, or by veiling its finances in secret; but for this very reason, once corruption enters it is less easily rooted out. The immediate cause of the overthrow of the German democracy was the desire of Prussian landowners to prevent the exposure of their embezzlements.

Financial dishonesty is usually committed by underlings; it does not appear to be common among the chief statesmen of democracies or among dictators themselves, who seek power rather than luxury. But every dictator must appoint subordinates who know that personal loyalty will cover a multitude of sins; the local boss, who can reply to critics by accusing them of treason, is a common feature of dictatorships.

For the party in power in a democracy to give jobs to its own supporters, in return for their loyalty, is corruption. In dictatorships it is an invariable and inevitable practice; for no position of importance can be entrusted to one whose faith in the ruling party is not absolute. Impartiality in the Civil Service is not enough; a judge who tries accused persons according to the evidence rather than to the wishes of the Government, will not serve. The ruling party is assumed to be the State itself and the first qualification for any branch of public service is not competence and honesty, but the profession of a particular set of political opinions. The process was known in Germany as *Gleichschaltung*, unifying the State: so this form of corruption is not removed by a dictatorship but re-christened.

By no means all democracies are as free from corruption as Britain; her unusually high standard is due to two facts: first, that the financial system is the product of a struggle for Parliamentary Government; second, that the 19th century enfranchise-

ment of the middle classes strengthened the demand for economical administration. Where the evolution of Government has been different the results have not always been so satisfactory. But the general conclusion remains; while all Governments are liable to corruption, democracies possess weapons for fighting it which are denied to dictatorships. Corruption is widespread in U.S.A. politics; but the democratic weapons have, in some districts, been successfully used against it. In Germany, the absence of opposition enabled officials of the Nazi Party to use their position to enrich themselves.

The fourth merit of a democracy can be more easily observed in practice than defined in words. It springs from the fact that democratic Governments, unlike dictatorships, have a moral claim on the allegiance of their subjects. To the eternal question of politics, "Why should I obey?" the democratic Government can reply, "Because we are your Government; we cannot please everyone, but we please the majority; if we do not please you, you can set to work to alter the majority's opinion; in the meantime you should obey us, unless you make the claim that your wishes are more important than those of anyone else—a claim which you cannot expect other people to admit." The dictator's answer is not based on argument, but on assertion, "Obedience to me is the duty of a citizen; the Leader knows best; if you do not agree, you are no true citizens." This attitude is well illustrated by Hitler's demand, at the 1937 Nazi Party Congress, for "blind obedience." The necessary blindness can be secured by control of Press, wireless and every method of communication. Since a democracy is not obliged to deprive its people of the use of their faculties, the relations between Government and people, and between one citizen and another, are happier. They can argue without fighting; there is no need of spies or censorship. The higher civilisation of a democracy is manifested, not only in the intellectual sphere but in the friendliness of everyday relations.

GROWTH OF FASCISM

Yet democracy has not been the commonest form of Government. Government is older than reason, and it is only as reason is applied to politics that the merits of democracy appear. In the 19th century it spread rapidly, the Parliamentary system of Great Britain being widely used as a model. The 1914 War was won by democratic powers, and by 1919 the forms of democracy were established in all European countries except Russia. But before long these forms had been rendered meaningless in several of the smaller States, where military leaders had seized power, often with

the help of the old ruling class. In 1922 Mussolini came to power in Italy and erected the Fascist¹ form of Government which both destroyed democracy in fact and openly challenged its principles. The very similar "National-Socialism" of Hitler received great impetus in the slump years of 1930-32, and obtained power in 1933.

Fascism arises from distress and disappointment. The Italians found that they had gained little from being on the winning side in the War; the Germans, that the democratic Republic established in 1918 had not succeeded in throwing off the bonds of the Treaty of Versailles, nor in solving the economic problems of the slump. When such situations arise, and many sections—wage-earners, middle-class, ex-soldiers—face unemployment and poverty the policy of the Government must be drastic, and show evidence of a determination to deal rapidly and boldly with the difficulties. But while all are agreed that policy must be drastic, there is disagreement about its direction. Some demand a rapid transition to Socialism, others a reduction of taxes on large incomes, others the expulsion of Jews, or the exclusion of women from every employment outside the home. Everyone has a grievance which affects him personally, and sees in its removal the cure for the nation's ills. The conflict of parties becomes keener, violence is used, and here democracy is put to its test. The right and duty of a democratic Government to suppress disorder has been noticed; in times of stress it is justified in adopting measures, such as the prohibition of provocative displays of party strength, which in normal times would be unnecessary. Italy and Germany, in common with many other countries, had but slight experience of democracy, and the democratic respect for the lives and opinions of other citizens had not developed. Germany had adopted a Constitution which contained two opposing defects: under its usual working the Government, hampered by a multiplicity of parties, could not act with speed and decision; when, as a remedy, special powers were invoked, the Executive dwarfed the rest of the Constitution and made the democratic rights of the people meaningless. Everywhere, the War had familiarised the use of violence. Out of the confusion the Fascists emerged victorious; they perceived, before others, that victory would go to those most prepared to use force; their propaganda won support by heaping everyone's discontents together and blaming them on "the system"

¹ The word *Fascio* (group or bundle) was the name used by groups of Mussolini's followers when he was striving for power. It refers also to the *fascēs* carried by lictors attending on magistrates in Ancient Rome—bundles of rods encircling an axe. They symbolised Roman unity and power and served the practical purposes of punishment and execution.

—a vague term, generally denoting the Parliamentary method of Government, and, in Germany, associated with the Jews. The Fascists also received financial help from the wealthy, who judged them to be a bulwark against Socialism.

Thus the world learnt, not that democracy was unworkable—for it weathered the storm in Western Europe and Czecho-Slovakia—but that it could not be secured simply by laying down a democratic Constitution in law. The principle that the Government alone may use force, and then only to preserve the law, must be respected; the system of parties must permit the rise, when great problems threaten, of a Government able to act decisively; control by the people must mean choice and criticism of the Government, not preventing it from doing its work. It is when these conditions are not fulfilled that the cry for order becomes irresistible and the claims of liberty are forgotten. The chief count on which Fascists indict democracy is that freedom means obstruction, delay and chaos. That this is not true of democracy as a whole is proved by its persistence both in Britain and elsewhere; but the charge is true enough where the forms of democracy are introduced without consideration of the conditions of its survival.

POLICY OF FASCISM

Fascism had shown that it could seize power; the next task was to form its policy and try to solve the problems which had baffled democratic Governments. The first idea in Fascism is that of the Leader; against the emphasis laid by Socialists on the influence of economic forces and classes, Fascism stresses the idea of the "hero," the great man who moulds history. All authority springs from the Leader; he may claim to represent the people's will, and when he first comes to power this may be true; but he does not allow it to be put to the test. Mussolini held occasional elections and Hitler submitted some of his actions to the judgment of a plebiscite. This device, however, was only advertisement: those who might wish to vote NO could not conduct propaganda; the duty of voting YES was plainly intimated; and no one supposed that a majority against the dictator would lead to his resignation. The voter had only a choice between the dictator and nothing. The dictator received a huge majority to which no one outside his jurisdiction attached importance. The complete and irresponsible power of the dictator should be remembered, because the claim is sometimes made that he represents the people far more truly than any democratic Government; but the only way to test this assertion is to allow free discussion, which dictatorship repudiates.

Fascists claim that the "Leadership Principle" secures that Government is carried on by those best fitted for it. Whereas, in a democracy, persons may rise to power by the use of those arts which charm a meeting and win votes, the Leader can select on grounds of ability. It is assumed that the Leader will not be moved by flattery and that his judgment will be right; yet Leaders rise to power by demagoguery, and in the speeches which they and their subordinates make, flattery and emotional assertion take the place of argument. Passion, determination, ruthlessness, and a keen eye for the opponent's weaknesses are the qualities which the Fascist Leader must possess: administrative ability and wide knowledge, though desirable, are not essential.

This exaltation of an individual causes Fascism to take different forms according to the personality of the Dictator; but certain common elements can be discerned. The plan of a Corporate State is used; employers and employed in each industry are grouped together and elect such representatives as the ruling party approves. Thus Capital and Labour are brought under the dictator's control. To the former a policy of "controlled Capitalism" is applied. Private persons still own industry and draw profits, but they may be required to invest all but a fixed percentage in the ways required by the Government. Introduction of new machinery, control of staff, hours and wages are also liable to State regulation: strikes and lock-outs are equally forbidden. In Germany the drive for re-armament caused this control to be extended further than in other Fascist States. The worker also lives a regulated life; the social services, particularly those relating to the family, are the object of special attention; leisure time activity is organised; compulsory work in labour camps is adopted as a remedy for unemployment.

Discipline is thus the watchword of Fascism. Ruling the masses is the privilege of those who enjoy the dictator's approval and confidence. Prominent among these are the great industrialists, so that Fascism is properly regarded as a form of Capitalism, though very different from the "Liberal Capitalism" of Britain. Now discipline is not an end in itself; there must be some purpose for which it is imposed. This leads to the last element in Fascism, in the light of which all the others must be understood. The purpose of the national discipline is the glory of the State. To democrats the State is an organisation in which individuals take part, using it to promote their own and one another's happiness. To Fascists the State is, in Mussolini's words, a "spiritual entity"; it does not exist for individuals, but they for it. Further, the State is a National

State, independent of other nations and seeking its glory at their expense.

So Fascism led inevitably to war. The Fascist Leaders had induced their peoples to surrender liberty in return for promises of power and glory. Since Germany possessed in a high degree the industrial resources needed for war, it was in that country that Fascism reached its fullest expression. As the plan for world domination proceeded, Fascism shed its pretensions to political philosophy and emerged as the doctrine of power for its own sake: and its cruelty and wickedness could not be disguised even from those most anxious to avert their eyes. The greater part of mankind united against the danger and secured the complete military defeat of the Fascist States.

This, however, is not necessarily the end of Fascism. There are two lessons to be learnt from this fearful episode in the world's history. The first is that democrats must not rest content with a mere political device for the expression of opinions. The democratic form of Government must be capable of removing social injustice and misery; for while these remain there is always the possibility of a Fascist renaissance. The second lesson is that if the States of the world insist on complete Sovereignty and recognise no law but their own wishes, then they accept the idea of violence. Those States which are, at any given time, victorious may like to forget this: but the defeated and disappointed, seeing that violence can prevail, pursue it and make it the ruling principle of their Governments. Democracy and the civilised way of life which it creates can continue only if international law is made a reality.

COMMUNISM

While Fascism grew in Central Europe, Communism increased its strength in Russia. In 1917 the corrupt Government of the Tsar fell. Kerensky, who succeeded to power, considered the introduction of the forms of democracy, but made the mistake of continuing Russia's participation in the Great War. The Russian, tired of fighting with inadequate equipment for a cause in which he did not believe, wanted peace and the expropriation of landlords. The Bolsheviks,¹ led by Lenin, secured power in November 1917 by promising these things, and maintained it by achieving them. The struggle for power, in which the anti-Bolsheviks were

¹ The word means Majority Party. It was adopted in 1903 when the Russian Social-Democratic Party split into two sections, Bolshevik and Menshevik (Minority). The former insisted that the right policy was to form a highly-organised Party to seize power when Tsarism should collapse. The name Bolshevik is not widely used in Russia to-day, the ruling party calling itself the Communist Party of the Soviet Union.

helped by foreign expeditionary forces, left Russia in chaos and poverty. Out of this the victorious Communists proceeded to build a Socialist¹ State. The need to conciliate merchants and wealthier peasants led Lenin in 1923 to adopt a New Economic Policy which, while preserving the main structure of Socialism, allowed some scope for private profit. This policy was not intended to be permanent, and under the guidance of Stalin, who rose to power after Lenin's death in 1924, the extent of private enterprise was much reduced, and from 1928 onwards a Socialist economic policy was embodied in a series of Five Year Plans.

The general doctrines of Socialism have already been explained. Communists base their faith in Socialism on the Materialist Conception of History, expounded by Karl Marx. According to this view, the fundamental fact in human history is the series of conflicts for ownership of the means of production. As new methods of production have been invented, new classes have risen to power and altered the form of society both for their own advantage and so that the new methods can be used to the full. Merchants and industrialists have overthrown feudal landlords; it now remains for the proletariat, the class of property-less workers, to overthrow the capitalist. Communists claim that the development of science, art, and all human activities, can only be fully understood as aspects of the class struggle; that the struggle has always been violent in the past, and the proletariat will therefore have to use force and establish a dictatorship in order to destroy the power of the class which it has supplanted. In the U.S.S.R. this dictatorship is exercised by the Communist Party through the Soviets—councils elected for every village and town and for the whole Union. No party but the Communist Party may exist; the citizen who wishes to join it must accept and understand Communist teaching and be approved by those who are already members. The presence of party members at every strategic point, controlling the armed forces, industry, agriculture and trade, ensures that the policy chosen by the party prevails.

FASCISM AND COMMUNISM CONTRASTED

Fascism and Communism are thus both dictatorships, and the arguments advanced against dictatorship may be applied to both systems. They present, however, important points of difference. Fascism maintains private ownership of the sources of wealth, and private profit; Communism does not. Fascism envisages a State composed of different classes, held together by the spirit of national

¹ In the sense in which this word is used by Communists.
See note on p. 168.

unity; Communism plans a classless society. To the Fascist the National State is the supreme political unit, maintaining its virility by rivalry with other such States; to the Communist the real division of mankind is not into nations but into classes, and he expects the classless society, which is to end this division, to become international and world-wide. Fascists and Communists alike show unbounded enthusiasm; but the former is inspired by faith in his Leader and his State, the latter by conviction that the victory of his cause is a historical necessity. Finally, Fascism accepts dictatorship as a permanent form of Government; Communism thinks it a temporary expedient while the new order is being established. Communists push this claim further; they hold that a Capitalist democracy is but the shadow of real democracy, because of the inequalities of wealth, power and opportunity between citizens; and that they, by removing these inequalities, are not destroying democracy but creating it.

If indeed the dictatorship be only temporary, the difference between Communism and democracy would be much less; for democracies can, without abandoning their principles, give the Government supreme power for a time, when it has to face foreign or civil war, or both, as Russia faced them after 1917. What signs, then, are there that the dictatorship in the U.S.S.R. is disappearing? Certainly, a Constitution has been established, providing for universal and secret voting, and, in Stalin's phrase, "whatever is best in western democracies"; discussion of some questions—e.g., the efficiency of this or that factory, or the marriage laws—is allowed and encouraged. But the great question "Is Socialism a good system?" may not be discussed. The policy of the Communist Party is rigidly enforced; against its opponents are arrayed the secret police and the penalties of exile and death:

"The same arts that did gain
A power, must it maintain."

The successes of the Red Army in the 1939-45 War led to a great increase in the influence of Communism in Eastern Europe and in Asia, so that the differences between its doctrines and those of western democracy were brought into high relief. The situation was further complicated by the strategic problems which face such Powers as Britain, the U.S.A., and the U.S.S.R. whatever their forms of Government may be. It may be argued that there are two vital elements in democracy—political freedom and social justice; that the West emphasises the former and the U.S.S.R. the latter; and that if each is willing to learn from the other, while the United Nations Organisation is used to solve strategic problems, great

advantage will accrue to all parties. Alternatively, mutual suspicions may lead to a steady worsening of relations. No one can at present foresee which course events will take; and the future both of democracy and of peace hangs in the balance.

CONCLUSION

The instinct of many people in Britain is to dismiss both Communism and Fascism as excesses to which foreigners are prone, but from which the British, and such foreigners as have the good fortune to resemble them most closely, are delivered by the excellence of their Constitution and inherent love of moderate views. This judgment is incomplete; the British Constitution is admirable but not perfect, and its chief excellence is that it permits itself to be changed; if it is worshipped in silence and not subjected to study, use and adaptation, it loses its virtue. The moderation of British politics is not an unchangeable law of Nature but the product of comparative prosperity. The policies of the dictatorships, particularly their military preparations and restrictions of trade, make the economic and political problems of the whole world more difficult. Peoples, therefore, who wish to keep the democratic form of Government must increase their study of these problems; whatever is merely obstructive in the Constitution must be pruned away; the causes of social injustice must be removed. For these tasks, the people must equip themselves with an education which, intellectually, aids sound judgment, and, morally, promotes an interest in and respect for one's fellow-citizens.

Nothing in the record of dictatorship shakes the claim of democracy to be the system which is least liable to abuse, most capable of adaptation to new needs, most stimulating to knowledge, most favourable to happiness. These advantages, however, are to be enjoyed only by those who have the courage and energy to undertake the task of governing themselves. For those to whom this effort seems too much, the rods and the axe are more appropriate.

BOOKS :

- *BASSETT. *Essentials of Parliamentary Democracy.*
- *SIR ERNEST SIMON AND OTHERS. *Constructive Democracy.*
- S. AND B. WEBB. *Soviet Communism.*
- MUSSOLINI. *Political and Social Doctrines of Fascism.*
- HITLER. *My Struggle.*
- MOWRER. *Germany puts the Clock back.*
- ASHTON. *The Fascist: his State and Mind.*
- (Edited, Emile Burns.) *Handbook of Marxism*
- SALVEMINI. *Under the Axe of Fascism.*
- GORDEY. *Visa to Moscow.*
- *TAWNEY. *The Attack.*

Note.—The growing tension between Communist Russia and the Western world has caused the word "Socialism" to be used in two distinct senses. To a Russian Communist, Socialism is a half-way house on the road to Communism: in his eyes, the Socialists of Western Europe are not true Socialists at all. In the West, however, those who profess Socialism understand by the term a combination of political freedom with an economic and social policy comparable to that of the British Labour Party (see Ch. XIII). Western Socialists hold that Soviet Communism has, by its abandonment of democracy, deserted the Socialist faith. If, as is most suitable in this book, we use the terms as they are used in Britain, the fundamental difference between a Socialist and a Communist is that the former believes in democracy with all that it implies.

PART THREE

THE JUDICATURE

CHAPTER XV

LAW AND THE COURTS

Kinds of Law
The Magistrates' Court: Summary Jurisdiction
Quarter Sessions
County Court
Coroners' Courts
The High Court of Justice
Procedure in the High Court
Appeals

The previous part of this book ended with the defence of democracy. The maintenance of democracy must depend in a large measure on the just and efficient working of the courts of law. It is to the actions of these courts that the people look for the restraint of those who interfere with the rights of their fellow-citizens. The courts by declaring and applying the law make its provisions known to the people so that they are subject not to the will of an arbitrary Government, but to a known and accepted set of rules. Finally it is an essential of freedom that the force necessary for Government should be subordinate to law; but the law itself is only a set of rules; it can have effect only through the persons who are set in authority in the courts. The purpose, then, of this chapter and the next is to examine the constitution and working of these courts.

KINDS OF LAW

There are in England¹ three main kinds of law: Common Law, arising from ancient custom, Statute Law composed of Acts of Parliament, and Equity, whose origins will be described later. The King's judges of Norman and Plantagenet times found that the people expected justice to conform to certain traditions which varied from one part of the country to another; it was the judges' task to build out of these traditions a system of rules which would be common to the whole country. This Common Law is nowhere written down as Acts of Parliament are; but in the course of years a vast number of cases have been settled, according to the prin-

¹ The law of Scotland differs both in principles and procedure: this chapter deals with English Law only.

ciples of Common Law, and the judges' decisions are recorded; from these decisions the Common Law may be deduced and applied to future cases. Further, Acts of Parliament do not always succeed in saying clearly what they mean; and in doubtful cases the Courts must decide the meaning of the Act as best they can. He who wishes, therefore, to understand English Law must know not only the Statutes and the Common Law, but the decisions given in "Leading Cases." So it is sometimes said that there is another type of law, "judge-made law," though lawyers insist that they do not make the law, but only declare and explain it. Yet the phrase "judge-made law" is not wholly misleading; it is an invariable rule that a decision given by a judge as to what the Common Law is or what the Statutes mean, shall be accepted as a rule to be applied in all similar cases, until it is set aside by a judge of a higher court, or until a new Act of Parliament settles the matter beyond doubt. Thus in 1901 the Law Lords, in accordance with an established legal principle, decided in the *Taff Vale* case that a Trade Union could be compelled to pay damages out of its funds for unlawful acts committed by some of its servants even though it had strenuously opposed such acts. Few people had realised that the Statutes about Trade Unionism would have this effect; certainly Parliament had not so intended. The highest court in the land, however, had decided, and their decision was, in fact, part of the law until in 1906 Parliament, by the Trade Disputes Act, expressed its meaning clearly. It should be noticed that the courts do not concern themselves with what Parliament meant to say; they look simply at the words of the Statute, and interpret them in the light of common sense and previous legal decisions. The advantage claimed for this system is that it keeps the courts to their own rules, free from controversies as to what this or that political party in power had in mind. If some of the results are unexpected, that, from the courts' point of view, is a lesson to Parliament to express itself more clearly. The courts can also claim that they are helping to enforce the Sovereignty of Parliament; for by interpreting what the Act says, whether it says it ill or well, they create a situation in which anomalies can be rectified only by Acts of Parliament. For the Statute Law has the final voice; whatever the Common Law, or past Statutes, or decisions based on them, may have prescribed, that can be altered by a new Statute. By this supremacy of Statutes, English Law, though springing from different sources, is fashioned into one system to be administered by all the courts.

Statutes have exceptional importance because they are the part of the law through which changes can be made. The rules of

Common Law and of Equity were fashioned by a propertied class and have left the mark of their origin on the whole legal system. It is by the enactment of new Statutes, and the repealing of old, that the law can be changed from an instrument of class rule into the common protection of the whole people.

The division into Statute and Common Law is historical. Two other classifications are required before the arrangement of courts can be properly understood. First, there is the division into civil and criminal law. All breaches of the law involve injury or danger of injury to certain individuals; indeed if an action did not involve this, there would be no need to make it illegal. In some instances this injury to individuals is the total of the offence. If I write in a newspaper that so-and-so is unfit for the position he holds, I have done him an injury, he will bring a civil action against me for libel, and I may have to pay damages to him; the law considers that when this has been done his rights are sufficiently protected.¹ But if I steal his money, the law considers that I have done something which sets a dangerous example; by challenging the right of property, I have injured not only so-and-so, but everyone. I shall be subjected to a criminal prosecution; the money, if it can be found, will be returned to its owner, but the State, representing everybody, will inflict a further penalty. Apparently the law, unlike Shakespeare, regards stealing a purse as more serious than filching a good name; it acts on the assumption that more people are likely to be tempted by example to larceny than to libel. Injuries, therefore, become crimes when they are of such character as to make probable a general disregard of other people's rights, and the outraged party is not merely the immediate victim, but the State itself. Some crimes have no immediate victim; the man who disregards the traffic lights may be lucky enough not to injure anyone directly, but his action is criminal because it might easily have caused injury.

Secondly, both civil and criminal matters can be conveniently divided into those of greater and less importance, which are dealt with by the higher and lower courts respectively.

THE MAGISTRATES' COURT— SUMMARY JURISDICTION.

The handling of lesser criminal offences rests to a large extent with the magistrates called Justices of the Peace. This office is over six hundred years old, and until the 19th century the Justices were responsible, not only for their judicial tasks, but for much of the work now performed by local authorities. They are appointed by

¹ In certain circumstances libel can be criminal. See Ch. XVI.

the Lord Chancellor¹ on the recommendation of the Lords Lieutenant of the counties; the latter, however, are guided by the local Advisory Committees, which, under the Lord Chancellor are the real appointers of J.P.s. The local political party organisations are represented on the committees, and an attempt is made to maintain some proportion between the number of J.P.s from each party. This method is not altogether satisfactory, as an able man may be excluded solely because his party already has its quota. Anyone who is of age may be appointed, but it is understood that the Committees shall only recommend people of ability and high character, and usually with some experience of public work. Justices are unpaid, and can only be removed from their office if they show themselves to be seriously unfit. England has thus an amateur magistracy, and for centuries this meant that each district of England was ruled by its little oligarchy of squires, who might or might not be conscientious; in the countryside their rigorous enforcement of the laws against poaching was the subject of many attacks. Although there is no longer any property qualification, it is difficult to find working-class men and women who can give the time to the work, and there are complaints that the old oligarchy persists in some districts. The quality of magistrates' justice varies so much that it would be easy to quote examples both to the credit and discredit of the system; there are the patient and conscientious, and, at the other extreme, the lazy and the ignorant, who leave most of the work to their Clerks. Many Justices aspire to their position simply for the dignity of it, and never sit in judgment at all. Among proposals for the reform of the magistracy are that Justices who do not act should be retired, and that all should give some evidence of legal knowledge before appointment. The merits of an amateur magistracy are that it is cheap and that it can give power to people whose everyday work, more than that of a professional lawyer, puts them in touch with the lives of those among whom they have to administer justice. Its defects appear when the volume of work grows, and it is usual in towns of over 25,000 inhabitants for a Stipendiary, *i.e.*, paid magistrate, a lawyer by profession, to be appointed by the Home Secretary. In London, J.P.s are concerned mainly with the licensing laws, school attendance, and minor administrative duties, the bulk of the judicial work being given to the Stipendiaries. Most of the work in London Juvenile Courts, however, is done by J.P.s.

The lowest court with criminal jurisdiction is the Court of Petty Sessions, which may be presided over by a single J.P. In this form, however, the Court cannot inflict heavier penalties than a

¹ Or by the Chancellor of the Duchy of Lancaster. See Ch. IV.

fine of twenty shillings, or fourteen days' imprisonment. Usually there is a "Bench" of two or more Justices, and Petty Sessions has then the same powers as a Stipendiary's Court. These courts have *Summary Jurisdiction*, i.e., they can deal with lesser offences straightway without trial by jury. They cannot, except in a few cases, inflict more than six months' imprisonment or a £50 fine. The police, or a private person, e.g., the victim of an assault, may obtain a summons requiring the offender to appear, or the latter may be arrested by the police and brought to the court. For small thefts and assaults, for drunk and disorderly charges, and minor motoring offences, the Court of Summary Jurisdiction is the regular tribunal; the popular name "Police Courts" brings out the fact that the Courts of Summary Jurisdiction are mainly concerned with this type of case, and most of the witnesses are the policemen, who observe the offence. The more serious offences, e.g., theft, burglary, arson, murder, are known as *indictable offences* because the accused is charged in a formal written statement or indictment. These must be heard by a higher court with a jury, except that on certain charges the accused may choose whether he will be dealt with summarily, or go for trial by jury with the risk of a heavier penalty if he is convicted. Procedure at a Court of Summary Jurisdiction bears some resemblance to a full trial. First the prosecution and then the defence states its case, and calls witnesses who are examined and cross-examined. If, however, the accused person has a lawyer to represent him, it will usually be a solicitor, not a barrister as in the High Court. Nor, as has been said, is there a jury, and the case will be decided by the magistrates. If they are not satisfied that the prisoner is guilty they will dismiss the case; otherwise, they may "bind him over" for a stated period. If, during that period, he commits no further offence the matter is ended; if he does, he can be punished for the two offences together. Frequently the offender or his friends have to deposit a sum of money with the court, which will be forfeited if further offences are committed. Offenders may also be put on probation for a period during which they must keep in touch with the Probation Officer. His task is to acquaint himself with their circumstances, and keep them away from evil influences. Finally the court may inflict punishment, within the limits mentioned above. When the accused is to be proceeded against by indictment, there is a preliminary hearing before the magistrates; they do not have to decide the question of guilt or innocence, but only whether there is sufficient evidence to justify committing the prisoner for trial at the Quarter Sessions, or the Assizes.

QUARTER SESSIONS

The Court of Quarter Sessions is composed of two or more of the Justices from the whole of a county; in the larger towns, however, it is presided over by a single paid magistrate, the Recorder, appointed by the Home Secretary. All indictable offences, save the most serious, can be tried here, and appeals from the Courts of Summary Jurisdiction are heard. The procedure is the same as that of the High Court. Since the High Court has jurisdiction over both criminal and civil matters, it will be convenient to deal first with the lower civil courts.

COUNTY COURT

The County Court, which deals with lesser civil actions, has none of the antiquity of the office of J.P. In the Middle Ages the mass of the people rarely handled money, and such rights as they had were often at the mercy of their immediate superior in the feudal system, or might be determined by the feudal courts which stood outside the King's justice. But by the middle of the 19th century the volume of small commercial transactions had grown, and in 1846 County Courts were set up to enable disputes arising from small debts to be settled without recourse to the expensive machinery of the High Court. Since that date other types of civil business have been handed over to the County Court. The growth of social and economic legislation has also added to their work; workmen who consider they have not received due compensation for injury suffered in their employment, and tenants and landlords disputing about their rights under the Rent Restriction Acts, bring their cases to the County Court. The Acts which empower local authorities to deal with sanitation, housing, street widening, and reconstruction, create a good deal of litigation; landlords may be required to pay penalties for not observing sanitary regulations, individuals may be aggrieved by the decision of a local council to create a car park in a particular place. Business of this type, however, though sometimes appearing in the County Court, is usually handled by a Court of Summary Jurisdiction in its civil capacity.

County Courts are presided over by a Judge¹ who will be a barrister appointed by the Lord Chancellor. After hearing the plaintiff and defendant, who may be represented by solicitors or barristers, the Judge gives his decision, though occasionally a jury of eight persons is summoned to decide disputed matters of fact. It is possible to appeal from the decision of a County

¹ Referred to as His Honour Judge So-on-so: a High Court Judge is known as, e.g., Mr. Justice Avory.

Court to the Court of Appeal. The County Court's jurisdiction is limited to cases involving not more than £100, or, for special types of case, larger sums up to £500. Although these are civil courts, they can issue orders requiring debtors to make payments, and neglect of such an order may lead to criminal proceedings and imprisonment. Hence it is that though imprisonment for debt has nominally been abolished, about one-fifth of the people who go to prison do so because they have disobeyed court orders by not paying debts. County Court Judges, however, distinguish between the careless debtor who makes no effort to pay, and the victim of an extortionate moneylender, or an unreasonable hire purchase contract. Before committing a debtor to prison, the Judge must be satisfied that, since the order to pay was made, the debtor has had the means to pay and refused to do so.

CORONERS' COURTS

Of the lesser courts, there remains one whose function is to discover facts rather than administer law. A coroner, who is a doctor or lawyer appointed by the County or Borough Council, and removable from his office only by the Lord Chancellor, has to hold inquests when death has occurred without obvious natural cause. He may sit with or without a jury, and when a jury is employed it can give its verdict by a majority vote. The rules of procedure are lax, and, when a witness is under suspicion, the inquest may degenerate into an irregular trial without any of the usual safeguards about evidence. A verdict of murder against a particular person will always be followed by arrest and criminal proceedings, in the course of which the prisoner may find his case seriously prejudiced. Criticism of this, and other, defects, in the Coroners' Courts has grown in recent years, and considerable alteration of the law is now proposed.

THE HIGH COURT OF JUSTICE

The centre of the whole judicial system is the Supreme Court of Judicature, possessing both civil and criminal jurisdiction. It was established by an Act of 1873, and is composed of the High Court of Justice and the Court of Appeal; the rules of procedure in these courts are determined by the Supreme Court as a whole under the presidency of the Lord Chancellor. The High Court contains three divisions, (i) The Queen's Bench Division, to which belong the Lord Chief Justice, and nineteen puisne¹ judges. (ii) Chancery

¹ The name given to Judges not Presidents of a Division: they are appointed on the Lord Chancellor's recommendation, while the Prime Minister recommends to the Queen for appointments to the superior positions.

Division, presided over by the Lord Chancellor, or the Master of the Rolls acting in his place, and containing five puisne judges. (iii) Probate, Divorce and Admiralty Division, with a President and seven puisne judges. For a proper understanding of the duties of each division, it is necessary to look back into history. The Queen has been described as the fountain of justice, and the phrase records the fact that it was courts established by the monarch which spread uniform rules of justice throughout the realm. These courts had to win their powers step by step, and this they did by means of writs, which were commands to persons or local courts, requiring them to do justice or refrain from injustice. The number of matters, however, with which the writs dealt was limited; further, it is the natural tendency of lawyers to proceed by rigid rules and according to precedent, since the danger of favouritism can thus be lessened. So the law administered by the King's Courts was both defective and excessively rigid; such an evil was clearly a reproach to the King, and it lay with the Lord Chancellor as Keeper of the King's Conscience, to remove it. Thus arose the Court of Chancery, which at first was not so much a court as an administrative department of State, charged with reconciling law and justice. In effect, the plaintiff who could not get justice from the law in a civil suit, appealed to the King's most intimate adviser to put the matter right in accordance with accepted ideas of fairness and common sense. From the decisions of successive Lord Chancellors, was framed a body of rules known as Equity, not in opposition to the law, but as an addition to it. Since Equity could recognise the existence of new problems to which the law had not been adapted, much business came to the Lord Chancellor's court; in particular, cases arising from property managed by people who were not its owners, but held it in trust for some other person or institution. Since the Court of Chancery was so closely connected with the King, it was suspect to the partisans of Parliament in the 17th century, and there was talk of abolishing Equity. No doubt it was convenient to have a royal official to remedy the defects in the law, but might not his powers also be used to set the King's will above the law? Considerations of convenience prevailed, and Law and Equity Courts continued to exist side by side. The 1873 Act knitted the administration of the two systems together, so that the rules of both Law and Equity are administered both in the Queen's Bench and Chancery divisions. To-day, therefore, criminal matters go to Queen's Bench; civil actions may go either to Queen's Bench or Chancery, though cases which will require chiefly the application of the rules of Equity usually go to the

latter. So the Chancellor's court still, as in the past, specializes in cases arising from trusts and the administration of property.

Through the Probate, Divorce and Admiralty Division, the High Court has taken to itself duties previously performed by special courts. In the Middle Ages, the Church occupied a position of great importance; and since at marriage and death the individual required the ministrations of the Church, Church courts dealt with questions of marriage, divorce and the proving of wills—proving, that is, that they had been made in the proper form, and that any claims of Church or State over the property of the deceased had been satisfied. Shipping and the Navy had developed their own Court of Admiralty, to deal with disputes about maritime affairs and crimes committed at sea. These separate Admiralty and Ecclesiastical Courts were absorbed in the High Court by the 1873 Judicature Act; so the Probate, Divorce and Admiralty Division handles a miscellany of problems which in the past required special treatment.

In London the civil work of the High Court is performed at the Law Courts in the Strand, while some of the Queen's Bench judges try criminal cases at the Central Criminal Court (the Old Bailey). In addition, Queen's Bench judges make regular tours of the country holding Assizes at certain towns; there they try all persons who have been committed by the lower criminal courts in that district, and settle such civil actions as have not already been brought to London.

PROCEDURE IN THE HIGH COURT

Criminal trials in the High Court, especially trials for murder, are matters of great public interest; they are extensively reported in all newspapers, and a large branch of fiction has sprung from them. Part of this interest is no doubt unpleasant, a morbid pleasure in reading of violent crimes and heavy penalties; but this is not the whole truth of the matter. Although few people are tried in the High Court—the very great majority of criminals are punished by Courts of Summary Jurisdiction—anyone who had the misfortune to be connected innocently and indirectly with a serious crime, might be so tried; so it is in everyone's interest that the procedure, by which death or long imprisonment may be inflicted, should be subject to the closest scrutiny.

The indictable offences tried in the High Court fall into three classes: treasons, felonies and misdemeanours. Treason, which is the attempt to deprive the Sovereign of his life or his rights, occurs rarely and is usually the symptom of grave social disorder. The distinction between felonies and misdemeanours is of historical

origin, and while in general the more serious crimes are felonies, there are important exceptions; e.g., perjury, the giving of false evidence on oath, is only a misdemeanour. Rules of law are based on this distinction; anyone who assists a felon to escape justice may be charged as an accessory after the fact; anyone who sees a crime being committed must try to stop it, but unless the crime is a felony he should not use force to restrain the offender, or the latter may bring an action for assault against him.

The person indicted will be tried "by God and his country," that is to say, by a jury of twelve persons intended to represent his countrymen. The Registration Officers who compile the voting lists have to mark, as potential jurors, those who own freehold property worth £10 or more per year, or leasehold £20 per year, or occupy houses with a rateable value of £20 a year or over—or in the London area £30. Any of these may be called to serve on a jury, though most people regard it as an inconvenience rather than a privilege. Judges occasionally excuse those who are called, if an adequate reason is given, and, after an exceptionally long or serious case, the jurors may be excused from further service for a period of years. When a jury is being empanelled at the beginning of a trial, either side may object to any member, and someone else will be taken. The intention is that the jurors shall have had no previous connection with the persons in the case. At the trial they are required by the judge to dismiss from their minds anything they may previously have heard about the case. As the earlier proceedings before the magistrates and possibly in a Coroner's Court will have been reported in the press, this injunction is not easy to obey. The jury at a murder trial is cut off from contact with the outside world while the trial lasts.

The prosecution may be instituted by a private person, by the police, or by the Director of Public Prosecutions, and will be conducted by a barrister, who in a few cases of great importance will be the Attorney-General. In an opening speech he describes the facts as they appear to his side, and calls witnesses to support the story. Their evidence is laid before the court, in answers to a series of questions put by the counsel for the prosecution; they are then cross-examined, *i.e.*, questioned by the counsel for the defence, who endeavours to show that they are either mistaken or lying; the judge may intervene with questions of his own. The court is guided by strict rules as to what evidence and what questions to witnesses may be permitted. In particular, neither side may try to confuse the jury, or excite irrational emotions, by bringing in matter irrelevant to the case; and witnesses must state what they themselves saw or heard, not the

experiences and sayings of other people. Each counsel is alert to detect breaches of the rules by his opponent; sometimes the jury are sent away, while counsel argue, and the judge decides, the admissibility of certain evidence. When the prosecution has completed its case, counsel for the defence may sometimes submit that there is no real approach to proof, and therefore no case to answer; if the judge agrees he will direct the jury to find a verdict of Not Guilty and the case ends. But the usual procedure is for the defending counsel to state his version of the facts, and call witnesses for examination, and cross-examination by the prosecution. Neither a prisoner, nor his wife, can be compelled to give evidence; but they may be called as witnesses if they wish. After the evidence is completed, counsel, first the defence and then the prosecution, make concluding speeches, though, if the prisoner has called no witnesses, the prosecution has no right of reply. The judge then delivers a summary of the case for the guidance of the jury. It is at this point that the high intellectual qualities required of a judge become most apparent. He must distinguish between crucial and trivial points; he must show what has been proved as fact, what conclusions follow inevitably from the facts, and what remains in dispute; he must explain the points of law involved. All this is done in the knowledge that if the prisoner is convicted there may be an appeal, and the fairness of the summing up will be submitted to the scrutiny of other judges. It is quite proper for a judge to incline to one side or the other in his summing up, if that is justified by the proved facts. The summing up invariably contains a warning to the jury that they must bring in a verdict of Not Guilty unless guilt is proved "beyond reasonable doubt." The jury may settle their verdict at once, but it is far more usual for them to retire. Then, till they reach a unanimous decision, they remain shut up, cut off from all communication, except that they may ask the judge for further advice on points of law, or re-examine any exhibits which have formed part of the evidence. If they cannot agree, the case will have to be tried again with another jury. If they say Not Guilty, the prisoner is discharged, and cannot be tried again on the same charge, even though he were to confess or overwhelming evidence of his guilt were to be discovered. This is a salutary rule which discourages the Executive from bringing a man to trial until there is formidable evidence against him, and prevents it from pursuing him with a series of prosecutions. If the verdict is Guilty the judge pronounces sentence, which for treason, piracy and arson in dockyards must be death, and for murder, death or life imprisonment. For other offences, the law provides a maximum penalty but no mini-

mum, so that the judge has a wide discretion. He will receive, to guide his decision, information from the police about any previous convictions of the prisoner—information which is rigidly excluded from the court, unless and until guilt is proved.

In civil actions before the High Court, the order of proceedings is, in the main, similar to that just described. Points of law, however, play a larger part; consequently proceedings may be complicated by legal arguments between counsel and judge. In many civil cases no jury is now required, and in some the judge may tell the jury what verdict they are to return. Special juries containing people from a wealthier class than the ordinary juror, may be empanelled at the request of either side; they are chiefly used where the points to be decided will require extensive business knowledge. A notable feature of civil cases is the judgment pronounced by the judge at the end; he does not confine himself to saying which side has won, but delivers a statement of the general principles of law involved in the case. It is the reports of these judgments which form an explanation of, and addition to, the common law and the statutes. The Judge must also determine whether each side is to pay its own costs, or whether, as is usual, the whole cost is to fall on the losers.

APPEALS

A party to a civil action who is dissatisfied with the High Court's decision, may take the case to the Court of Appeal. The Lord Chancellor, the Lord Chief Justice, the President of the Probate, Divorce and Admiralty Division, belong to this court, though they rarely attend. The work is done by the Master of the Rolls and eight Lord Justices of Appeal, who are either ex-judges of the High Court, or barristers of at least fifteen years' standing, three or more members of the court sit to hear any appeal, and usually there are two branches of the Court sitting at one time. On the criminal side, there was no appeal from the High Court until an Act of 1907 provided that the Lord Chief Justice and a varying number of Queen's Bench judges should sit as a Court of Criminal Appeal. Unless the appeal is brought on a point of law only, permission to appeal must be obtained either from the Court of Criminal Appeal or the judge who tried the case. The Court of Criminal Appeal does not often reverse a verdict but frequently reduces the sentence imposed: it has also the power, less often exercised, to increase the sentence.

The highest of all courts is the House of Lords, which for this purpose means not the whole House, but the Lord Chancellor, the Lords of Appeal in Ordinary,¹ and peers who have held high

¹ See Ch X

judicial offices. Since this court may sit when Parliament is prorogued or dissolved, it is clearly distinct from the House of Lords as part of the Legislature. It hears appeals from the Court of Appeal, and even from the Court of Criminal Appeal, if the Attorney-General certifies that a point of law of great public importance is involved.

The House of Lords as a whole retains one legal function, that of trying persons who are impeached, *i.e.*, accused by the Commons before the Lords. Historically associated with impeachment is the process of attainder—the passing of a bill in the regular manner through both Houses, to declare a particular person guilty of treason or felony, and impose a capital sentence. Neither impeachment or attainder have been used for over a century, and they have little to recommend them. They were employed against persons whom Parliament believed to be dangerous, but against whom there was not sufficient precise evidence to secure conviction by an ordinary court. Attainder is not a judicial, but a legislative process; it is indeed, little short of legalised murder.

While there is no court above the House of Lords, there are two departments of the Executive closely connected with the administration of justice. First, the Home Secretary, through the exercise of the Royal Prerogative of Mercy, can abolish or reduce sentences, so there is, in a sense, appeal to him in criminal cases. Secondly, there is the Judicial Committee of the Privy Council. This is not, strictly, a court delivering judgments, but a council advising Her Majesty. Since, however, its membership includes those Privy Councillors who have been judges, the Lords of Appeal in Ordinary, and some judges from the self-governing Dominions, it possesses more legal knowledge and experience than any court, and has become in practice a court of appeal from courts in territories belonging to Her Majesty but outside the United Kingdom, and a court to which disputes between Dominions may be referred. It can also revise the decisions made by the Ecclesiastical Courts in which the Church of England settles problems arising in its own organisation. Finally, in the unlikely event of the courts ignoring the most obvious principles of justice, it might be that the Judicial Committee would intervene with advice to the Queen to see that justice was done.

BOOKS :

- VINOGRADOFF *Commonsense and Law.*
- GEIDART. *Elements of English Law.*
- *DICEY *Law and Opinion in England.*
- GILES. *The Magistrates' Courts.*

CHAPTER XVI

LAW, LIBERTY AND JUSTICE

Quality of British Justice
Justice for Rich and Poor
Treatment of Law-breakers
Young Offenders
Principles of Reform
Law and Liberty
 Freedom of Association
 Freedom of Speech and Publication
 Freedom of Meeting
Rule of Law

QUALITY OF BRITISH JUSTICE

The system of English law and the hierarchy of the courts are ancient and impressive, and, on a strictly legalistic view, they produce justice. That is to say, they are free from bribery; except for parts of divorce suits, and when evidence containing military secrets is being given, the courts are open to the public and the Press. This publicity is a safeguard of justice, while the rule that newspapers may report a case but not comment on it until the end, prevents the whipping up of sentiment, so as to overawe the courts and secure verdicts according with momentary feeling rather than with the facts. Favouritism or malice on account of the social position, the political or religious beliefs of the accused, do occasionally appear in the courts of the less worthy J.P.s, but in a world where many countries have thrown aside even the pretence of impartiality, the record of British justice stands high. The rules of evidence, the repeated right of appeal against conviction, and the provision that acquittal at any stage is final, all combine to secure that if error creeps in it is far more likely to result in the acquittal of the guilty than the condemnation of the innocent.

Justice, however, must be considered, not only in the legal sense, but in relation to the whole political and social framework; and for a proper appreciation of a legal system three questions must be examined. First, do the differences in the incomes of individuals hamper the efforts of the courts towards impartiality? Second, is it properly understood that criminals have rights—that justice to them means not only punishment, but an attempt to help them become good citizens? Third, does the law, and the courts' interpretation of it, uphold that freedom of opinion, without which neither justice nor progress can continue.

JUSTICE FOR RICH AND POOR

A very large proportion of offences are punishable by a fine with the alternative of imprisonment. Magistrates endeavour to proportion fines to the offenders' means, though they cannot have sufficiently detailed knowledge to do this exactly, and it must be remembered that many people have little money to spare after the necessities of life have been bought. The use of discretion by the magistrates has also the undesirable result that the same offence committed by offenders in similar circumstances will receive widely different treatment from court to court. The extent of the problem can be seen from the fact that about one-sixth of those who go to prison are persons who have refused or failed to pay fines. The result is that everyone assumes, without any desire to be unfair, that imprisonment is more natural for the poor than for the rich; the growth of motoring offences and the treatment of them has made this clear. It is not easy to suggest a remedy; the wider use of imprisonment "without the option" would please no one, and, at least until the prison system has been carefully examined and reformed, would do no good. Meanwhile, some progress is being made by granting time in which to pay fines, and the volume of this unnecessary imprisonment is declining.

Persons not yet convicted of any offence may find themselves imprisoned. When a case is brought before the magistrates all the necessary evidence may not have been obtained. A remand, *i.e.*, a postponement of the case, is then necessary, and the prisoner will be "remanded in custody" unless the court grants bail—*i.e.*, lets him go on the understanding that he must forfeit a sum of money if he does not return on a fixed date. A person from whom very little money could be obtained, might be refused bail on that ground. The same problem arises when prisoners are committed for trial. Not all accused realise that there is the alternative of bail, or that if bail is refused by the magistrates they can appeal to a High Court judge. In this, and in other matters, magistrates need to exercise much consideration for the rights of the accused if injustice is to be avoided. Bail is naturally refused to those whose past record makes it likely that they will use their period of liberty to attempt flight, and to those charged with very grave crimes.

Trial by jury is often referred to as one of the bulwarks of English liberty. It is, certainly, an English device, representing the compromise between the different races that make up the English people. The Norman conquerors wishing to ascertain the customs of their Saxon subjects, adopted a method that had been employed across the Channel by Frankish Kings. Yet it is not the normal method of trial; four out of every five convictions are made by

Courts of Summary Jurisdiction. Nor, for two-thirds of the population, can it be, as it is sometimes described, trial by one's peers; the juror's qualification excludes the poorer classes. A general accusation of class bias against juries would be quite unjustified; but prejudice and error are human failings, and the present jury system means that where they appear they are most likely to operate against the poor. Jurors, unlike judges, have not gone through the rigorous legal training which teaches self-criticism and caution against prejudice.

But the element in English justice which does most to tilt the scales against the poorer classes is its expense. If the accused is to present his case properly, he will certainly need a barrister in the High Court, and perhaps a solicitor in the lower courts. Persons brought before a Court of Summary Jurisdiction may, if they are really poor, be granted by the court a Certificate of Legal Aid which will secure the necessary services free. Similarly when such a court commits for trial persons without means, it will make a Defence Order which provides proper help in the higher court. Further, a large proportion—probably more than half—of the divorce cases brought in the High Court come under the Poor Persons Procedure, by which solicitors and barristers give their services free of charge. Poverty and ignorance of procedure can, however, be a serious handicap in the lower courts, and the right of appeal from them is limited by its costliness and the need to deposit money which will be forfeited if the appeal is dismissed. In civil cases the Legal Aid and Advice Act 1949 provides help for litigants with less than £700 annual income. This scheme is administered by the Law Society and the Bar Council, professional bodies representing, respectively, solicitors and barristers.

The mere size of lawyers' fees is one cause of the dearth of justice, but this is only a part of the great question of the distribution of incomes, which cannot be discussed here. In civil cases, the length of the proceedings throughout which the services of a lawyer must be paid for, adds to the expense. A wealth of documentary evidence may be required for every part of the case; either side may search for points of law with which to hamper the other, the relevance of each piece of evidence may give rise to long argument. The problem, therefore, is to simplify and shorten procedure without hindering litigants in the proper presentation of the case. Now the solution can only be found by expert lawyers, and so vast is the body of knowledge required by any lawyer, that it is natural for members of the profession to think of themselves as servants of the existing law, rather than

reformers. The Common Law is incomplete; Statutes are not always well drafted, and much of the energy of lawyers has been used up in devising rules to make an imperfect instrument fit for all the work it is set to perform. The rules of Equity are an example of this ingenious constructive ability; but the existence of Equity and Law side by side is one of the complications of the present system. It is only men of superlative gifts who can combine the great lawyer's grasp of fact and legal principle with the statesman's insight into the needs of the community. The 1873 Act marked an advance towards simplicity; the late Lord Birkenhead achieved great reforms in the law relating to property; but the whole problem is still the subject of study by several committees.

The collective funds of Trade Unions can secure good legal advice for working people in cases of wrongful dismissal, or Workmen's Compensation; and excellent work is done by "Poor Men's Lawyers," who put their advice at the disposal of members of the local organisations of political parties, or work with non-party welfare associations. In the past detestation of lawyers was widespread; under the feudal system they were regarded as upholders of the harsh restrictions on personal liberty; until at least the middle of the 19th century they were suspect as men who entangled justice in a net of procedure; they suffered from some of their own number who saw in legal confusion a source of income rather than a reproach to be removed. The growth of social legislation, and of awareness, among lawyers, of social problems, has done much to alter this attitude.

The law, then, is dear because it is complex and because the volume of litigation leaves little time for reform. In the higher courts, the insufficient number of judges, and consequent delay in hearing cases, is a frequent cause of complaint. Nor can any description of the Judicature fail to bring out the fact that the Lord Chancellor bears a burden fit for two or three men. If the duties of a Cabinet Minister, the Chairmanship of the House of Lords as a legislature, presidency of it as a court, chairmanship of the Judicial Committee of the Privy Council, Presidency of the Supreme Court, the Court of Appeal, and the Chancery Division were not enough, he has control over an immense number of judicial and ecclesiastical appointments; as Keeper of the Queen's Conscience, he is the person finally responsible for the care of minors and lunatics, and may be charged with any duty belonging to the Crown which involves the protection of the weak. While the Cabinet have a collective responsibility for acts of Government, a special solemnity attaches to him since he keeps the Great Seal which gives effect to important documents. More than once a

proposal has been advanced for the appointment of a Minister of Justice who would take over those duties of the Home Secretary connected with justice, and the legal appointments of the Lord Chancellor, and would give proper attention to questions whose consideration is hampered by pressure of work—e.g., the formation of general principles to guide judges and magistrates in the infliction of penalties, and the encouragement of legal education. A number of judges and lawyers, however, view this proposal with suspicion, because it offends against the principle of separation of powers; they point out that in countries where a Ministry of Justice has been established, it has sometimes become an instrument by which the course of justice can be deflected at the will of the party in power.

TREATMENT OF LAW BREAKERS

When the relations between the State and those who break its rules are considered, the most obvious purpose of the Judicature is to vindicate the State's rights—to show that they cannot be ignored with impunity. But the efforts to protect society will have only partial success if they are not directed to reforming the offender. There are, then, two elements in the treatment of criminals, the deterrent and the reformative. Round these have grown two schools of thought, one inclined to ask for severe punishment in order to deter others from criminality, if not the criminal himself, the other urging the human rights of the criminal, the practical advantages of reforming him, and the danger that over-severity will turn a petty offender into an enemy of society. Capital punishment, which in this country is inflicted on about fifteen persons every year, clearly cannot be reformative. Its supporters hold that it is a necessary deterrent and the chief reason why so few criminals in Britain use or even carry firearms. Its opponents answer that this conclusion is not borne out by the experience of other countries which have abolished the death penalty, and emphasise the repulsion which prison officials feel to an execution. It is probable that flogging which was sometimes ordered in addition to imprisonment, for crimes of violence, must be regarded in the same light; the fear of it may deter potential criminals, but it can hardly have anything but a brutalising effect on the recipient. The Cadogan Committee, which reported in 1938, recommended its abolition except for a few offences committed by people already in prison.

Imprisonment is the outstanding feature of the British penal system. Before 1948, a sentence imposed for lesser offences was served in the Second or Third division. First division imprisonment, which was intended for political offenders, allowed the

prisoner much freedom in regard to meals, access to books, and use of time; it had, however, largely fallen into disuse. Prisoners in the Second and Third divisions were classified by the prison authorities according to their age and previous character. Most of the work done in prison is of little use, and it is usually performed by obsolete methods; it is not likely to preserve a man's fitness for work, or help him to regain employment when he is free. The prisoner is urged along the path to virtue by the dread of penalties—solitary confinement and low diet—and the hope of privileges and of a remission of part of his sentence.

Grave offences were punished by penal servitude for not less than three years. Here work was more laborious, conditions harder, and discipline more rigid. The word "servitude" was significant; the convict was in effect a person without rights, whose condition of life depended on the prison Governor. The convict who behaved well accumulated privileges, and might be released when he had served three-quarters of his sentence. The tendency of prison reform to-day is to increase the opportunities for earning privileges. This gives the prisoner a reasonable incentive for good behaviour, while the prison authorities wield, in the forfeiture of privileges, a disciplinary weapon that does not involve inhumanity.

In practice the distinction between imprisonment and penal servitude has disappeared and this fact is recognised in the Criminal Justice Act approved by Parliament in 1948. The effect of this Act has been to abolish penal servitude and the separate Divisions of imprisonment; corporal punishment has been restricted as recommended by the Cadogan Committee.

YOUNG OFFENDERS

The duty of attempting reform is particularly urgent with the young offender; for his treatment, at his first conflict with the law, may well decide his attitude towards society for the rest of his life. Court procedure, moreover, has to be made simpler and less alarming. A large number of Acts, chief of which are the Children and Young Persons Acts of 1933 and 1952, deal with this problem, and with the protection of children from cruelty and evil influences. Consequently, it is now very rare for children under fourteen, and comparatively rare for young persons under seventeen, to be tried on indictment. They are dealt with by Juvenile Courts of not more than three specially qualified magistrates of whom one must, if possible, be a woman. These courts sit in a different building or room from that used by other courts; or, if that is impossible, on a different day. The procedure is made intelligible to young

people, the public are excluded and the Press forbidden to report offenders' names. If the magistrates make a finding of guilt—the word "conviction" is not used by a Juvenile Court—they consider the home circumstances of the culprit and the opinions of his parents, teachers and employers when deciding how to deal with him. Much use is made of probation, and the recruitment of suitable probation officers is one of the problems in this field. If the offence has been grave, or the control at home is unsatisfactory, the offender may be sent to an Approved School for three years or more. Other methods include fines, or a short period at a Detention Centre. These Centres were prescribed in the Criminal Justice Act 1948, but shortage of staff and accommodation limits the use that can be made of this method of treatment.

A person between 16 and 21 years of age, found guilty of an indictable offence and liable to fall into serious criminality, may be sent to a Borstal institution for two or three years. The life there is planned to resemble that of a school, with a bias towards manual training and outdoor life; about three-quarters of the pupils become good citizens.

PRINCIPLES OF REFORM

Despite the shortcomings which have been mentioned, English penal and reformatory methods have greatly improved in the last 120 years. Penal reforms are usually made much later than they ought to be because so large a proportion of the people do not get sent to prison, and find anxiety enough in the problems of ordinary life. The question is sometimes put, why bother so much about those who break the law? Would it not be better to give attention to improving the life of honest people? There are several answers, the most obvious of which is that it is quite possible to deal with both problems. Further, it is cheaper to reform the criminal at an early stage than to keep him in prison at intervals for most of his life. On deeper consideration, it becomes clear that a community that is callous towards its criminals lowers its moral standards, and will be less alert to detect cruelty and injustice in other spheres. Careful study of the reasons why people break the law, often reveals the law's defects; from this spring reforms which benefit everyone. All punishment is an emergency measure; if a man steals, the ultimate problem is to find out the cause, whether it lies in social conditions, or the thief's own nature, and try to remove it. Unfortunately this process takes time, and in the interval society must be protected. Herein lies the justification of punishment, and its danger; for if it is used without thought, society, feeling itself protected, may neglect the duty of reform. When this

occurs, as in the 18th century, both the cruelty of punishments and the savagery of criminals increase, each nourishing the other. England has escaped from this vicious circle, partly through the efforts of prison reformers such as Elizabeth Fry and John Howard, partly through the development of an adequate police; for when a greater proportion of criminals are caught there is no longer the desire to make a terrible example of them.

LAW AND LIBERTY

Criminals, it has been argued, must be punished, in order to protect society. This protection is usually thought of as the defence of property against theft, but if the law did no more than this, it would be a device for keeping the rich on top and the poor underneath. It should be, however, the means by which everyone may be protected from interference with their personal liberties. The phrase "the liberties of an Englishman" has long held place in history even at times when the eye of faith was required to discern them. The use of the concrete plural "liberties" is typical of English practice; there has been no general proclamation of liberty as such, but each of a series of important rights has been vindicated by a particular struggle in history, and its maintenance to-day depends on the working of the law.

The diligent filling up of gaps in the law, in deference to the principle that the Queen must not suffer injustice to be done, has established the rule that there is no wrong without a remedy. So if private persons do not fulfil legal obligations to one another, or if one attempts to restrain another from going about his lawful business, the victim may proceed with a civil action for breach of contract or trespass, or a prosecution for assault according to circumstances. There was one curious exception; since the Crown could do no wrong, it could not be liable to civil or criminal proceedings. For example, a man knocked down by an Army lorry might proceed against the driver, but the driver's employer, the Crown, was not liable to pay damages as a private employer might be. This and similar anomalies, however, were removed by the Crown Proceedings Act of 1946. The Crown, with its exceptional responsibilities, cannot be placed in exactly the same position as a private person: but there is now a straightforward procedure which injured parties may use against the Crown. Moreover, an increasing amount of public enterprise is managed by bodies such as the B.B.C., legally separated from the Crown; the man whose business has been injured by a careless comment in a broadcast finds no special legal difficulty in obtaining redress,

provided he does not delay more than six months in bringing the action.

The combination of the rule "no wrong without remedy" with the Rule of Law,¹ protects the citizen from unlawful imprisonment or other injury at the hands of officers of the Executive; for he can proceed against them as against anyone else. Against unlawful imprisonment, there is a special precaution, the writ of Habeas Corpus. This writ is an order from a judge of the High Court requiring whoever is holding the prisoner in jail to bring him before the court on a given date. The effect is that any person who is in prison, except as the result of a lawful sentence by a court, can obtain his release or trial at the earliest possible moment. The writ is one of the oldest parts of English law, far older than the famous Habeas Corpus Act of 1679, or the less well-known Act of 1816. These Acts make the procedure for obtaining the writ simple, and provide heavy penalties against anyone who tries to prevent a prisoner from obtaining it. Occasionally, in times of stress, Acts have been passed depriving persons suspected of high treason of the right to a writ of Habeas Corpus. In the war of 1939-45 the Government was given power to detain persons whose liberty was considered to endanger the State without charging them with any offence. These and other infringements of the liberties ordinarily enjoyed in a democracy have, however, only been accepted as temporary measures, justified by emergency.

The liberties essential to democracy—freedom of speech and writing, of public meeting and association—exist in virtue of the general principle that a man may do whatever has not been forbidden by law. The scope of these rights in practice can therefore be discovered by an examination of the laws concerning slander, libel, blasphemy, indecency, sedition and breaches of the peace, and some more recent Acts such as the Public Order Act, 1936.

Freedom of association Britain contains a vast number of voluntary associations, for political, religious, industrial, and many other purposes. The restrictions on the right to associate are few. Associations formed to plan a crime are illegal; and the Public Order Act, modifying earlier laws, bans organisations which are trained and equipped so as to rival the forces of the Crown, or further their political beliefs by a show of force. The Registrar of Friendly Societies exercises control over Trade Unions, Benefit Clubs and the like, to see that members are not defrauded, or their money used for purposes outside the association's province.

Freedom of speech and publication. It may be slanderous to say that a man has committed a crime, or to make any other

¹ See Ch. II.

defamatory statement which causes him to suffer material loss; libel is the publication of defamatory matter in writing or some other permanent form, even if no material loss has been inflicted. The victim of either may bring a civil action and obtain damages, and if the libel is so outrageous that it might provoke a breach of the peace, a prosecution for criminal libel may be instituted. The law is complicated by the various defences which may be put up. A reviewer may say that his words were fair comment; the words may have been uttered in a privileged place, *e.g.*, Parliament, so that no action will lie; or it may be argued that the statement was true, and that it was in the public interest to make it. The uncertainty, and the heavy damages sometimes awarded, can cause great expense to people who publish statements in good faith, and in these respects the law could with advantage be reformed. Political controversies are, however, saved from the scurrility which attends them in countries where the law of libel is less strict. The effect of the laws has been summarised in the saying that anything may be written or said which a jury thinks fit to be written or said.

In cases of blasphemy, indecency, and sedition, the deciding authority is more frequently a magistrate than a jury. The definition of the first two offences is so vague that the law can have inequitable and absurd results. A learned agnostic, writing in literary language to prove all religions impostures, will probably be immune; the same view expressed in the cruder speech of the street corner, would lead to prosecution. On more than one occasion books have been condemned as immoral by a magistrate after hearing selections read by a police officer, evidence in favour of the book by writers of known standing being ignored. Nor is the definition of sedition, as applied to speech and writing any more satisfactory. Incitements to people to resist the law by force, to attempt alterations in Government policy, or the remedy of social injustice, by unlawful means, are justifiably forbidden. But the most vigorous criticism of the Government or the Constitution, or the class structure of society, and the rousing of opinion to alter them according to law, should be permitted, and it is generally supposed that they are permitted. Legally, however, it is seditious to stir up ill-will between classes, and a frightened or bigoted magistrate might interpret this as condemning any speech or book or pamphlet which strikingly contrasted the lot of the poor with that of the rich. The position is therefore somewhat paradoxical. In practice the British enjoy a large measure of freedom. Yet this liberty might be swiftly curtailed in time of acute political conflict, simply by more rigorous interpretation of

the existing law; and wide discretion rests with the magistracy—that is to say, with a part of the legal system where the need for reform is generally admitted.

The Incitement to Disaffection Act, 1934, has a special effect on books and pamphlets. The general right of the State to punish attempts to seduce members of the Armed Forces from their allegiance cannot be denied; and this right the Act reaffirms. But it further lays down that anyone who intends to commit this offence, and has in his possession documents suitable for the purpose, shall likewise be punished. A High Court judge who is satisfied that an offence has been committed, may grant a warrant empowering a police inspector to search any premises where evidence may be found, and any person on the premises.

The law deals only with documents which have been published; there is no censorship, that is to say, no need to obtain in advance permission to publish. Stage production, however, must be approved by a Court official, the Lord Chamberlain; this censorship works to a set of stereotyped rules, e.g., the prohibition of certain references to Royalty, or of particular words and phrases. It has therefore been easy to quote examples showing that worthless productions are permitted, while serious and valuable work has been banned because it was outspoken. But if the Lord Chamberlain attempted to act as a literary critic, it is unlikely that either the public or the authors would be better pleased. The showing of films is controlled by local authorities, which are largely, though by no means wholly, guided by the decisions of the British Board of Film Censors, a private body set up by the film industry. The growth of societies for the showing of particular kinds of film, and the use of non-inflammable films free from the usual restrictions, are both factors which have increased freedom in this direction.

Freedom of Meeting. Speeches made at meetings are subject to the restrictions already described, and the actual holding of a meeting raises the further problems of obstruction and breach of the peace. The former concerns only meetings held at street corners, on commons, or in other public places. In such places everyone has a right to pass to and fro, and anyone, or any number of people, may stop to talk or listen or do anything not in itself unlawful, provided they do not obstruct the right of passage; a meeting which does obstruct may be dispersed. This principle has to be applied with common sense; an attempt to hold a meeting in Piccadilly Circus would clearly be illegal; on the other hand, no one could require a peaceful meeting in Hyde Park to be dispersed, so that he could walk across the site of it. In practice, the

local authorities and the police make regulations stating what street corners or parts of parks may be used for meetings. Citizens who consider that this power is being unreasonably exercised, may attempt to hold meetings, and bring an action against anyone who attempts to disperse them; the question will thus be referred to the courts for decision.

As to the latter restriction, the general principle may be stated as follows:—no one may commit a breach of the peace, and a meeting which does so becomes an unlawful assembly; every citizen has a duty to stop breaches of the peace, and this duty is particularly incumbent on police and magistrates. Speech and behaviour which is so provocative that it gives reasonable cause to fear a breach of the peace is forbidden. The application of the last clause of this principle has given rise to some nice points of law, and several Statutes try to define the matter more precisely. Suppose, for example, that Fascists wish to hold a meeting in Whitechapel and set forth their reasons for disliking Jews, or that an ardent band of Protestants wish to proclaim their beliefs in the heart of a Catholic district in Liverpool. Meetings on such topics are not in themselves unlawful, but held in those districts, they may well provoke a breach of the peace. Are the authorities to permit them, and so give the police the duty of dispersing them when disorder begins—a duty dangerous and unpleasant both to police and public? It seems more sensible to prohibit them in advance, but this action admits the dangerous principle that a meeting may be made unlawful by the disorderly conduct of those who dislike it. Once this is granted, any section of the community can prevent their opponents from holding meetings, and the forces of the law, instead of protecting the law-abiding citizen, will be putting into effect the wishes of the disorderly. On this point, the Public Meetings Act, 1908, and the Public Order Act, have endeavoured to frame a compromise. It is forbidden for anyone at a public meeting to carry an offensive weapon, or to use "threatening, abusive, or insulting words and behaviour." No one may act in a disorderly manner so as to prevent the meeting from doing its business, and a policeman who reasonably suspects anyone of doing so may, if the chairman of the meeting requests, insist on the suspect's giving his name and address. These provisions are aimed against the disorderly, and are unobjectionable as long as police and magistrates act with reason and fairness. The prohibition, by the Public Order Act, of the public wearing of political uniforms appears to have been useful in preventing disorder. Uniforms appeal to emotion rather than reason, and bring into politics an excitability which is harmful both to the public

peace and the sensible expression of views. More open to question are the restraints put on meetings for fear they will provoke disorder. It is within the power of the police to prohibit the use of any open air site, *e.g.*, the neighbourhood of a labour exchange if they "reasonably apprehend" that disorder will result. Where the meeting takes the form of a procession, it must follow the route which the police require, and refrain from carrying any banners which the police have reason to think provocative. In the City of London, and the Metropolitan Police district, the Commissioners of Police may, with the Home Secretary's consent, forbid all processions by orders which require renewal every three months. In other towns such an order may be made by the Borough or Urban District Council, at the application of the police, and subject to the Home Secretary's consent. These measures are likely to enjoy the approval of the large number of citizens who do not organise meetings and who dislike disorder. Some danger lies in the fact that the enemies of democracy may, by creating disorder, lead a democratic Government on, step by step, to curtail liberty on the pretext of preserving the peace.

RULE OF LAW

The principle stated above—that all citizens, particularly those in authority, have a duty to see that the peace is kept—is not altered in the least by recent laws; it remains as the last reserve of power on which the Government can call. Should rebellion or invasion occur, magistrates, Chief Officers of police, officers of the Armed Forces, and Ministers of the Crown, may and must take any action necessary to restore order, and call on their immediate subordinates, and any other citizens, to co-operate. Seizure of property, arrest, and even killing of persons are made legal by the fact of necessity, but by necessity alone. Anyone who proceeds to arbitrary and violent acts beyond what is necessary will be subject to prosecution afterwards; though it is extremely probable that the Government would, after so grave a crisis, protect all who had acted in good faith, by passing an Act of Indemnity.¹ What is sometimes called Martial Law in England is not, therefore, a special system of law to be invoked at special times. It is merely the operation on a great scale of the same rule that requires anyone to interfere—or at least to call the police—if he sees an assault or theft being committed.

The exact extent to which we may exercise our liberties is thus shown to be determined very largely by the police, and in the last resort by the courts. The recruitment and training of the former,

¹ See Ch. II.

and the appointment of judges and magistrates to the latter, are therefore all the more important. But, above all, the preservation of liberty with order depends on the individual citizen. All Governments, irrespective of party, like to increase their own powers, and, since they are composed of human beings, they are inclined to resent criticism, and see in it a danger to the peace, where none exists. So the citizen, besides refraining from, and assisting to stop, disorder, must be ready to champion any victims of injustice, even though they be persons holding absurd or unpopular opinions. A Government intending to persecute will naturally begin with the more unpopular people, and the arbitrary treatment of them will serve as a precedent for other sections in time to come. Only a people which has made the Rule of Law a rule of life can resist this piecemeal destruction of liberty.

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PART FOUR

LOCAL GOVERNMENT

CHAPTER XVII

THE LOCAL AUTHORITIES

Historical Development
Local Government Electors
The Parish
The District
The County
The Borough
Conclusion

HISTORICAL DEVELOPMENT

The modern State contains towns and country districts and exercises sovereignty over them, but it has not destroyed their separate life, nor failed to use them as units of Government. Local Government is necessary because the central authority has not the time to concern itself with every lamp-post and footpath, and the first task of a local authority is to minister to purely local needs. Secondly, when nation-wide schemes of education, housing or transport are developed, the local authorities serve as agents for the Government, adapting the main lines of policy to local conditions. Further, if they enjoy some measure of independence, they can make experiments which may help future legislation, and they will attract the interest of the citizens. In the long run, no doubt, the policy of the Central Government is the more important; if the country goes to war, the dangerous crossroads in one's own town may seem of little significance. But in everyday matters the citizen's most immediate contact is with the local authority; he may be run over because the street is ill-lit, or poisoned because the water supply is neglected. If he is dissatisfied with his own or his neighbour's housing conditions, or with the education of his children, his first complaint will be directed against a local council.

English local Government is both older and younger than the Central Government. Parishes date from long before the Norman Conquest, Counties and Boroughs existed before Parliament. Side by side with these were the Justices of the Peace, who carried out, in a rudimentary form, many duties now performed by local authorities and departments of the Central Government. In the 16th century the vigilance of the Privy Council over the Justices was such that it seemed that England might move towards a highly

centralized form of Government. After the 17th century defeat of the Crown the local prestige of the Justices as country gentlemen enabled them to exercise their authority much as they pleased. At the close of the 18th century, the countryside was ruled by squires, the more tedious work being done reluctantly by the parishioners. The Government of Boroughs varied greatly in efficiency and honesty, and had often fallen into the hands of a clique. Many of the parishes had grown into towns; if they were still governed by an Open Vestry, *i.e.*, an assembly of all the ratepayers, the meetings were often disorderly; where a Select Vestry, *i.e.*, a small group, either elected by the ratepayers or chosen on some special plan, held power, cliques and corruption were again manifest. The reforming zeal of the 19th century took the old local divisions and created new authorities out of them by Act of Parliament. Despite the antiquity of the Borough, the Borough Council of to-day gets its form from the Municipal Corporations Act of 1835; some of the ancient dignity of the County survives, but County Councils are the creation of the Local Government Act of 1888, and the modern form of Parish organisation goes back only to 1894. During the same period Parliament dealt with the growth of social problems by erecting authorities *ad hoc*, that is to say, for one specified purpose. Poor Law Unions of parishes already existed; to these were added Burial Boards, School Boards, and so many others that the elector was bewildered and efficiency impaired. More recently, the tendency has been to abolish these authorities, and hand over their duties to Boroughs or Counties, or to the Districts created in 1872 as intermediate authorities between Parish and County. Further, the administration of social services has required closer co-operation with the centre. The Local Government Acts of 1929 and 1933 together with recent Acts on housing and transport express these developments. Two elements can thus be traced in local Government—the desire of the citizens in their localities for independence, and the Central Government's desire for efficiency and uniformity. The English system has reasonable success in reconciling these two. On the one hand, the local Councillors are elected from the neighbourhood and, with a few exceptions, unpaid; but they are assisted by a paid staff and work under the supervision of the Central Government. To-day each local authority, beside performing some duties peculiar to itself, is a unit co-operating with other local authorities, and with the centre, for the development of national policy. The subject of local Government can therefore be studied either by tracing the performance of each service, or by examining the powers and duties of each authority, and not until both processes have been completed does a satisfactory picture

emerge. It will be convenient to describe in this chapter how the authorities are elected, and some of their duties; the next chapter will show how local Government machinery is used for maintaining social services. The Government of London is reserved till later.

LOCAL GOVERNMENT ELECTORS

Everyone who has a Parliamentary vote may also vote at local elections; further, occupation of premises, as distinct from residence, will qualify so that a man with an office in Holborn and a home in Surbiton will be registered as a local government voter in both places. As a general rule, anyone qualified as an elector in the area of a local authority, may become a candidate for election to that authority, but no one may try to become a member of an authority which employs him. Persons who have been Councillors and mis-handled public money, are disqualified from standing. The dates of elections are fixed at regular intervals by Act of Parliament, and the voting is governed by rules similar to those for Parliamentary elections. Candidates do not, however, have to deposit money with the Returning Officer.

THE PARISH

Although all England is divided into Parishes for Church purposes, the Parish, as a local authority, exists only in the countryside. Where the population is less than three hundred there is usually no Council, and affairs are managed by a Parish Meeting which all the ratepayers may attend. In the larger parishes a Council of from five to fifteen members is elected usually by a show of hands at a Parish Meeting in April, and holds office for three years. The duties of either Council or Meeting are slight; they may maintain a Parish Hall and a Library, look after a village green, and protect local rights of way. Sometimes they take advantage of an Act which enables them to see to the lighting of the village, and higher authorities may hand over to them the care of the water supply and the repairing of footpaths. If any of these matters has been seriously neglected there will be excitement at the Parish Meeting, but usually Parish Councils carry out their necessary, if humdrum, duties without earning either gratitude or resentment. There is sometimes a difficulty in finding persons prepared to serve on the Council, and provision is made that residents in another Parish may be elected so long as they do not live more than three miles away. A Parish may have a paid Clerk, but no other paid officials.

THE DISTRICT

A group of Parishes forms a Rural District, and if the develop-

ment of industry turns a Parish into a small town, that Parish may request the County Council to make it into an Urban District. The Councils of Rural and Urban Districts are elected in April by ballot; as only one-third of the Councillors retire at each annual election, three years are necessary for the re-election of the whole Council. The Chairman may be one of the Councillors, or chosen from outside; in either case he has the powers of a J.P. during his term of office. The Districts enjoy greater dignity and power than the Parish. They are used by the Central Government as housing authorities, and so have the power to acquire land and to build, and the duty of dealing with slums and overcrowding. As sanitary authorities they must deal with the water supply and sewerage, the cleaning of streets and footpaths, and removal of refuse. Some of these duties they may hand on to the Parishes; on the other hand, Parishes which consider that the District Council is not sufficiently energetic, may request the County Council to hold an enquiry, and perhaps take over the duties itself.

While trunk roads are maintained directly by the Ministry of Transport, and other major roads by the Counties, the unclassified roads, for which no grant is made by the Ministry, must be maintained by Urban District Councils. In the countryside, although the County is the responsible authority, it frequently delegates the work to the Rural Districts.

District Councils have often owned or shared in the management of public utilities, but the nationalisation of gas and electricity will reduce this field of activity. They also require a number of paid officials, *e.g.*, a Clerk, Treasurer, Medical Officer of Health, Sanitary Inspector, and Surveyor of Highways. An Urban District Council has additional powers, such as that to provide allotments, libraries and public baths. Where the population exceeds 25,000 a Stipendiary Magistrate can be appointed. So there is a graduation of powers till there is little to choose between the larger Urban Districts and the smaller Boroughs.

THE COUNTY

The 1888 Act, when drawing the boundaries of the Administrative Counties, followed the ancient County boundaries, save that some Counties had to be divided to make convenient local Government areas—as Yorkshire into three Ridings or Sussex into East and West. Every Administrative County is divided into Electoral Divisions, each returning one Councillor at the elections, which are held once every three years at the beginning of April. The Councillors, when elected, choose a number of Aldermen equal to a third of their own number; frequently Councillors themselves are made Alder-

men, and this necessitates a by-election to provide a new Councillor. The term Alderman goes back to Saxon times and originally means men chosen for their age and experience to assist in Government. To-day the term has no reference to age, but as Aldermen hold office for six years, one-half retiring at the time of each Council election, they do acquire special experience of Council work. By this means also, the services of people possessed of useful knowledge but not suitable for election campaigns can be secured. The Chairman is chosen in the same manner as the Chairman of a District Council, and has the same right of acting as a J.P. It is within the power of the Council to pay a salary to the Chairman, and travelling expenses incurred by members when doing Council work.

The County Council, as chief of local authorities, acts in some matters—e.g., the issue of driving licences—as an agent for the Central Government, and exercises control over all the local authorities within the Administrative County. In this capacity, under the 1929 Local Government Act, it makes from time to time a survey of the County, and may recommend alterations in the boundaries of local authorities; these are considered by the Minister of Housing and Local Government, who will hear any objections and make a decision. One such survey has already been made throughout the country, and each County must make them in future at intervals of not less than ten years. While the Districts and Boroughs do most of the work under the Housing Acts, the County Council must see that this is adequately done, and may take over the task itself. The Education Act of 1944 has made Counties responsible for the education service at all stages; this task was previously shared between Counties, Boroughs and Urban Districts. Legislation passed after the war of 1939-45 has made the County the responsible authority for the Health Service and for Town and Country Planning. The position may be summarised by saying that the County Council's duty is to maintain a standard of efficiency throughout its area, both by encouraging the lesser authorities, and by exercising powers which these either do not possess, or cannot conveniently use.

In addition to this general work the County Council must give attention to agriculture, and its duties in this field have been increased by the war of 1939-45. Among the many committees which the law requires a County Council to appoint is one for agriculture, and through these local bodies the Ministry of Agriculture operates the wide range of policy described in Chapter VII.

The modern elective County Council has not entirely replaced the ancient administration through a Lord Lieutenant, and a High Sheriff appointed by the Queen, and through the Justices of the

Peace. The office of Lord Lieutenant has great dignity and is usually held by a wealthy country gentleman; he has charge of the County records, and recommends suitable persons to be J.P.s. The High Sheriff has to make all the preparations necessary for the holding of Assizes. Both these officials, however, are chiefly occupied in ceremonial duties, the work of the High Sheriff being performed by a lawyer appointed to be Under Sheriff. The old and new forms of Government are brought together by the Standing Joint Committee, half of whose members are Justices, and half County Councillors. This Committee appoints the Chief Constable of the County, and organises a Police Force in accordance with the law and with the Home Office regulations. Chief Constables, unlike Superintendents and Inspectors, do not always rise from the ranks, but are often retired officers of the Armed Forces. The police are inspected annually by the Home Office, and if the result is satisfactory, half the expenses will be met by the Central Government. Subject to this control, the County Police are responsible for all police duties within their area. As readers of detective stories know, the Chief Constable may call in the help of the C.I.D., when the problem is one of special difficulty or requires nation-wide police action. To create so expert a body as the C.I.D., and then limit its work at the will of local authorities may seem a surprising procedure; it arises from the desire for local independence, and the reluctance to give executive power to anyone appointed by the Central Government. When emergencies arise, or when a local function takes many of the police away from their ordinary duties, the Justices can appoint any citizen as a Special Constable; they can even fine those who refuse to serve, but this power has not been used recently.

THE BOROUGH

Of all local authorities, the Borough combines most fully ancient dignity and modern power. The Crown, in its struggle against the feudal nobility, sought to win the support of the townsfolk by granting them special privileges set forth in a Charter of Incorporation as a Borough. In the 17th century however, most of the larger towns, particularly London, were opposed to the King, and Charles II, on his restoration, attempted to reduce their status, though without much success. To this day Boroughs are still created by Charter, and an Urban or Rural District which desires the honour, informs its County Council and the Minister of Housing and Local Government, and petitions the Crown. The Minister holds an inquiry in the District, and the Judicial Committee of the Privy Council reports on the petition. The Charter may then be

granted by an Order in Council, but if as few as five per cent. of the local ratepayers object, an Act of Parliament will be necessary. The day on which an Urban District becomes a Borough is welcomed by local celebrations, attended by the Mayors of neighbouring Boroughs, and one of the most famous local personages is chosen to be the "Charter Mayor" in the first year of the Borough's life.

The Charter places the Government of the Borough in the hands of a Mayor, Aldermen and Councillors. The Borough is divided for election purposes into Wards, each returning three, or a multiple of three, Councillors, one-third of the Councillors retire each year, the elections being held in the month of May. The Councillors choose Aldermen to one-third of their number, as for County Councils. The Mayor is chosen from among the Councillors, or from outside, he holds office for a year, and may be re-elected. The antiquity of Boroughs is illustrated by the dignity of the Mayor. Beside taking the Chair at Council meetings, he presides over the local Bench of J.P.s during his year of office, and continues to act as a J.P. for the following year. He is the first citizen of the Borough and represents it at all important ceremonies. He is expected to attend many functions, such as Chamber of Commerce dinners, Church Bazaars and meetings in support of local charities. To meet the expense a great many Boroughs avail themselves of their legal power to pay a salary. Although the Mayor's wife has no legal duties she plays, as Mayoress, a large part in the social activities, and if the Mayor is unmarried he will usually obtain the services of a woman relative; when, as often happens, there is a woman Mayor, another woman will act as Mayoress. So the prestige of a Mayor is much greater than that of a Chairman of a District Council, or of a County Council, despite the latter's greater powers; and while the alleged pomposity of Mayors is a frequent topic for comic papers, in real life the Mayor is always greeted with respect. It is said that one of the chief advantages secured by an Urban District on becoming a Borough is that the added dignity of Mayoral and Aldermanic offices makes citizens more eager to secure them and perform them well. There is, of course, the danger that persons will be attracted who care more for a chain and the title "Your Worship" than for public duty, but most experience shows that this preservation of old customs has a beneficial effect.

All Boroughs possess as a minimum the powers of a large Urban District Council, and smaller or greater additions are made according to the terms of the Charter. Some gain nothing by Incorporation except the added dignity, and the right to audit their own

accounts, and to make by-laws in a few minor matters. Many have an Advisory Committee of their own to recommend the appointment of J.P.s, who are thus separated from the County Justices; a Stipendiary Magistrate and a separate Court of Quarter Sessions may be appointed. For larger Boroughs, further privileges may be added, and those with a population of over 75,000 may promote Bills in Parliament to turn themselves into *County Boroughs*. The powers of a County Borough may be simply described by saying that it combines those of a Borough and a County Council, though there are various duties, such as the supervision of Rural Districts, which obviously do not have to be performed. Towns of great size or historic importance occupy this rank; whatever County they may be in geographically, they are independent of the County Council. Any Borough, whether County or Municipal (the name given to non-County Boroughs) may by ancient custom or Royal Order be called a City, but this is only a dignity and involves no legal powers; it is regularly granted to towns which have a Cathedral. The Mayors of some of the most famous Cities are called Lord Mayors.

CONCLUSION

All the authorities so far described are general authorities, performing many duties. There remains a comparatively small number of *ad hoc* authorities, to manage ports and rivers, or to provide water supply. Some of these are created by the joint action of the ordinary local authorities; on others, both the public authorities and private companies are represented. They are suitable for handling technical problems, but, as 19th century experience has shown, the multiplication of them leads to confusion. To-day, the Central Government finds a substitute for them by requiring that particular local authorities shall act as housing authorities, education authorities, and so on. Thus a Borough Council can be several authorities in one. *e.g.*, a sanitary, a highway and a housing authority. It is for this reason that local authorities find it essential to divide into committees. The full working of this system, and its relation to the general problems of politics, can be best understood after a survey of the social services has been made.

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CHAPTER XVIII

THE SOCIAL WORK OF THE LOCAL AUTHORITIES

Health
Cleanliness and Sanitation
The National Health Service
Education
Housing
Planning
Poverty, Welfare and Child Care.

HEALTH

The promotion of public health requires both preventive and curative measures. The former seek to prevent the appearance or spread of disease by ensuring cleanliness and sanitation and by providing, particularly in the formative years of childhood, the care and feeding which strengthen the human body's powers of resistance; the latter aim at effective treatment of illness. Since the creation of the General Board of Health in 1848, local authorities have been required to work on both these lines, and their activities have increased with every advance in social conscience and medical knowledge. Most of the present law is to be found in the Public Health Act, 1936, and the National Health Service Act, 1946.

1. *Cleanliness and Sanitation.* The authorities for this purpose are the Borough and District Councils, the latter having the power to delegate some of the work to parishes. They must see that every house and school in their area has a supply of water for domestic purposes, and usually they meet the needs of factories and the total demand for water for all purposes. Some authorities set up their own waterworks and reservoirs, others make arrangements with a private company. Large towns face the obvious difficulty of finding a supply which is at once adequate and so situated geographically that the engineering feat of conveying it to the town can be performed at reasonable cost. Yet it is the country districts, with their poorer local authorities and scattered populations, which have the harder task. Since 1935 the Central Government has made special grants to rural areas, and perhaps in the future water supply may become a national service.

Beside providing water, the local authorities take control of wells and other small natural supplies to see that they are fit for use, and make by-laws against contamination and waste. The cost of the whole service is usually met by a special water rate. Urban

authorities frequently encourage the use of water by providing baths and public laundries; when suitable land can be obtained, an open air swimming bath is usually a successful venture.

Similar problems of engineering and purchase of property beset the tasks of removing refuse and disposing of sewerage. The health authorities supervise all building to see that nothing is erected in places which the sewerage system has made unhealthy, and that no buildings lack sanitation. The house-to-house collection of refuse is a special urban problem. In some towns may be seen rows of dustbins in the street awaiting collection; the bins may then be emptied into a vehicle the top of which is only half covered so that much refuse blows about the streets, which, if the local authority is equally unenthusiastic about open spaces, will be the chief playground for the children. In better governed towns there will be vehicles so equipped that the whole task is performed with speed and cleanliness. Such are the criteria by which local government is judged. Another source of disease is impure food. The health authorities appoint Sanitary Inspectors to visit shops, and take samples of food for the Public Analyst: the report on these activities is a regular item on the agenda of Council meetings.

2. *The National Health Service.* The Act of 1946 nominates the County and County Borough Councils as "local health authorities" to provide the services described in the Act. As has been noticed in Chapter VIII, this involves the provision of health centres and the appointment of representatives on the local Executive Councils administering the General Practitioner Service.

The 1946 Act also transfers to the local health authority certain duties previously performed partly by them and partly by the smaller local authorities. Prominent among these is the conduct of the maternity and child welfare service, which has grown very rapidly since the passing of an Act in 1907. Under the Act of 1936, local authorities were required to appoint Maternity and Child Welfare Committees, of which at least two members must be women. The Committee provides advice and medical treatment for children and expectant mothers, and furnishes free supplies of milk and cod-liver oil for the children. The service is run in co-operation with voluntary work; some authorities have in the past contented themselves with seeing that there is a reasonable number of voluntary clinics, and helping them to secure premises; others have built clinics and maternity homes of their own. Today, the great majority of mothers of young children use this service, and the infantile mortality rate, *i.e.*, the proportion of children who die in their first year, has been reduced to less than half what it was at the beginning of the century.

The provision of district nurses, and an "After-care" service for people who have recently left hospital, is also a duty placed on the local health authority by the 1946 Act. This authority must also provide for vaccination and immunisation against diphtheria; the Ministry of Health conducts propaganda to popularise these precautions, but does not make them compulsory, since there are people who doubt their efficacy, and, indeed, consider them dangerous. The more serious infectious diseases, such as scarlet fever, and the fortunately more rare typhus and smallpox, are "notifiable," i.e., the person in whose house they occur must inform the local authority, which in its turn must arrange for the removal of the patient and the disinfecting of the house.

In view of its wide range of duties, a local health authority may set up district committees within its area, on which the small local authorities will be represented, and this provides some measure of decentralisation. Nevertheless, the working out of a satisfactory relation between the various local authorities and between them all and the new hospital service, presents a difficult problem, the solution of which is vital to efficiency.

All authorities having health duties must appoint a Medical Officer of Health. His annual report gives a good indication of the effect of the authority's policy in health, housing and similar services. He cannot be dismissed without the consent of the Minister of Health, so need not fear to point out facts which may be distasteful to his immediate employers.

EDUCATION

Public education, like the public health service, began as a matter of necessity and has been developed by public-spirited people as something desirable on wider grounds. Early in the nineteenth century the churches became alarmed at the widespread ignorance of religion among the growing population, and the state began its activities by giving grants to religious bodies. This has had the unfortunate result that every extension of education has been marked by arguments among different denominations as to their claim on public funds. Employers found that modern industry needed people who could read, write and count; the granting of the vote to working people in 1867 provoked the famous remark "we must educate our masters." The 1870 Education Act created *ad hoc* School Boards to supplement the work of the denominational schools and later Acts made elementary education free and compulsory. In 1902 a further Act was passed, in the framing of which the Fabian Society played a notable part. This abolished the School Boards and transferred their duties to the ordinary

local authorities; it also improved the quality of education, and arranged for secondary education for a limited number of children in every district. Further improvements, including the raising of the school-leaving age to fourteen, were made by the 1918 Act, and in 1921 came a consolidating Act which was the basis of our system of education until the end of the last war. Under this 1921 Act, County Boroughs were the authorities for all education in their areas, while County Councils had charge of secondary education, and of elementary education outside the larger boroughs and urban districts, which were elementary education authorities. Children began to attend a junior elementary school at the age of five; at the age of eleven about 75 per cent. went on to a senior elementary school and left when they were fourteen; the others went to central, technical and secondary schools, usually leaving at the age of sixteen, though a certain number stayed for a further two years and a smaller number still went on to a University.

Long before 1939 the inadequacy of this system was widely recognised. People interested in education pressed for many reforms, in particular the raising of the school leaving age and the extension of secondary education to all children. By the end of the war education had suffered serious injury. The evacuation of children from large towns was an essential safety measure and no doubt gave many of them valuable experience of rural life; but the inadequate accommodation and staffing, together with other wartime difficulties, lowered educational standards throughout the country. The 1944 Education Act, however, lays the administrative foundation for a new educational system in which the damage that these are still being brought into operation, and that much inflicted by the war can be repaired and the deficiencies in our pre-war education made good. It will be convenient, therefore, to describe the provisions of this Act; the reader should remember has yet to be done, by both central and local government, before the full intention of the Act is realised.

All parents are required to see that their children receive an education suited to their age and ability. This means that unless the child is receiving proper instruction elsewhere it must attend school from the age of five until at least fifteen; this latter figure is in time to be raised to sixteen. Local education authorities are also required to provide nursery schools to which parents may, if they wish, send children between the ages of two and five. The demand for this service has grown in recent years, partly through recognition of its value to children and partly because of the national shortage of labour and the consequent need for women workers.

The schools for children over the age of five now form a single system of free education, and the old distinction in status, staffing, size of classes, etc., between "elementary" and "secondary" is being removed. Children attend a primary school until the age of eleven, when an examination is held to determine whether their secondary education shall be of the "grammar," "technical" or "modern" type. It is doubtful whether examination is the right instrument for this purpose, and it may be replaced or supplemented by consultation between parents and teachers, with regard to each child's aptitude and record at school. The grammar school, providing an academic education, will be continuing the work done by the secondary schools before the 1944 Act. The technical school will expand and improve the education previously given in junior technical schools. As to the modern school, opinion and policy are still, unfortunately, far from clear as to what its curriculum should be, though the work of the former senior elementary and central schools may be a guide. These schools are now, in name, modern secondary schools, and the number of pupils attending them is far greater than that to be found in the other types of secondary school. It is essential, if the aim of universal secondary education is to be fully achieved, to develop the modern school, and to ensure that it is not regarded as inferior to other secondary schools. Although the technical and modern schools will offer new kinds of secondary education it is important they should enjoy the same status and advantages as the grammar school. The 1944 Act seeks to secure this by placing all secondary schools under the same local administration, and providing the same conditions for teachers, in whichever type of school they may be; though the possession of a University degree and certain other qualifications is recognised by increase of salary.

Many teachers and others concerned for education hold that there should not be three types of secondary school, but rather, "comprehensive" schools. In these, children of widely different aptitudes and interests would share part of the curriculum and combine in the social and athletic life of the school, while provision would be made in separate classes for their different educational needs. This plan prevents the appearance of invidious distinctions between types of school; further, it helps children to realise the many different types of character and ability which human society both possesses and needs; and, by promoting understanding and tolerance, unifies and strengthens the nation. Critics of the comprehensive school argue that it must of necessity be so large that the individual child will be lost in the mass, and that it will be impossible for the head teacher to have real knowledge

of each pupil. If some local authorities adopt one policy and some the other, we may be able to judge by experience; unfortunately, the comprehensive plan requires more new building and may be prejudiced on that account.

The administration of this whole system of primary and secondary education is declared by the 1944 Act to be the responsibility of County and County Borough Councils. Each of these authorities has to submit to the Minister a plan for carrying out its duties under the 1944 Act. The Minister has to examine these plans, recommend alterations where necessary, and then give approval; he or she will then make, for each local authority, an order embodying its plan and stating the date by which each part of the plan should be complete. The task of preparing and executing the first plans under the 1944 Act will be immense; in time, however, the submission, every few years, of successive plans should become part of a steady process of educational advance.

Counties and County Boroughs are required to appoint an Education Committee with appropriate sub-committees and a Chief Education Officer. Most counties are, however, too large for it to be desirable to centralise control in the County Council, this authority must therefore in some parts of its territory create, from the Boroughs and Districts, "divisional executives" to whom some educational work is delegated. Boroughs and Urban Districts which in 1939 had over 60,000 population or more than 7,000 elementary school pupils have the right to prepare their own scheme of delegation. In the last resort, however, responsibility lies with the County and the exact scheme of delegation in each area has to be approved by the Minister.

While control by central and local government is needed to maintain proper standards of education everywhere, it is important to realise that each school should have a life and character of its own, and be in touch with the people of its immediate neighbourhood. The local educational authority therefore appoints governors and managers for secondary and primary schools respectively. These bodies have some share in the everyday administration of the school, and can bring special needs and problems under the eye of the education authority.

Before the passing of the 1944 Act nearly half the elementary schools were known as "voluntary" or "non-provided" schools. This meant that the buildings were owned and maintained by a religious body, usually Anglican or Roman Catholic, while other expenses were met from public funds. The religious body appointed the managers and, to some extent, the teachers; it was also entitled to see that the children received religious instruction according to

the faith of the particular church, whereas in other schools such instruction had to be "non-denominational." When the 1944 Act was being prepared it was clear that many churches could not meet the increased cost that would be required. The Coalition Government of the day, more fortunate than some of its predecessors, reached a settlement agreeable to all parties. If the religious body is able to meet half the additional cost, it retains its present rights over the school, which becomes known as an "aided" school. Failing this, the school becomes "controlled" (*i.e.*, by the local authority) though the religious body still has a voice in the appointment of some of the teachers who are to give two periods a week of denominational instruction. At the same time, the Act requires all schools to give religious instruction of some kind and to begin their day with school prayers; parents may, however, insist that their children shall not share in these parts of the school's work. This compromise has its critics in many quarters, but there is a widespread feeling that since agreement on so controversial a question has been reached, it had better not be disturbed.

The duties of a local educational authority do not stop at classroom education. They are required to provide free milk and one free meal a day for school-children. Their plans must include provision for playing-fields, organised games and school camps; and they are invited to consider the desirability of establishing boarding as well as day schools in their areas.

Nor should it be supposed that education ceases at the school-leaving age. Both the Ministry and the local authorities grant scholarships to enable secondary school pupils to go to Universities. There is also a large and growing demand for adult education, which local authorities try to meet by establishing evening institutes and by co-operation with Universities and with the Workers' Educational Association. The 1944 Act further requires that in time local authorities must provide County Colleges which people under eighteen, who have left school, will attend for one day a week. Development on these lines is essential if we are to have, among the adult population, that steady desire for knowledge which is one of the marks of a successful democracy.

HOUSING

Collective action about housing is in origin a department of health activity. Bad houses, like bad food, cause ill-health, and the condition of houses offered for sale or rent must be subject to inspection as much as food in shops. The principle, however, is not so easily applied to housing: if any dwelling is destroyed as unfit for habitation the occupants must be rehoused; the provision of

houses by local authorities creates complex financial problems; attempts to establish a high standard of building and to check exorbitant rents may discourage private enterprise from house building. The growth and movement of population, and the neglect of housing in two wars, add to the difficulties.

The housing authorities are the Borough and District Councils; between the wars several Acts were passed prescribing their powers and duties in this field, and most of this legislation was summarised in the Housing Act of 1936. The Council's Medical Officer of Health arranges for the visiting of houses by Sanitary Inspectors, and makes regular reports on their work to his authority. The authority, having considered the report, can order the owner of an insanitary house to carry out such repair as will make it fit to live in, or, if it is past repair, a demolition order will be made. If these orders are not obeyed the local authority can take the matter to court, and in the last resort may itself repair or demolish the houses at the owner's expense.

Frequently, however, local authorities have found whole areas so bad that the only way of dealing with them is to clear every building off the site. These are the slums, which stand as a reproach to Britain, evidence of past failure in foresight and public spirit. Some houses have been slums ever since they were built, because they lack proper ventilation, sanitation or water supply: others, made of inferior materials, become slums through neglect. Those who live in them fight a continual losing battle against dirt, and often against rats and other vermin, so that it seems hardly worth while to maintain self-respect or cleanly habits. To deal with such an area, the local authority may make a clearance order: sometimes the property-owners are left to clear the site themselves, but the authority has power to purchase the land. Clearance orders require the approval of the Ministry of Housing, which may, if the property-owners require it, arrange for the holding of a public enquiry. If the area is only partially composed of slum property, the authority may declare it to be either a Re-development Area, or, in less serious cases, an Improvement Area. For the former, the authority must, subject to the Ministry's approval, produce and enforce a plan for the future arrangement of houses, streets and open spaces in the area, and will finally be responsible for seeing that all the land is put to a suitable use: for the latter, it must issue and enforce orders for such demolition and repair as is necessary.

Houses which are in themselves satisfactory may be overcrowded to a degree that threatens health and decency, and the 1936 Act required local authorities to prosecute householders who permitted

overcrowding. An overcrowded house was defined as one in which there were more than two persons per room; children under ten to count as half a person, and babies under one, not at all. By this somewhat low standard, only 3.8 per cent. of some 9,000,000 houses inspected in 1936 were overcrowded; but there were wide differences between one area and another. In Sunderland, for example, the percentage was 20, while in Bournemouth it was only 0.3.

Unless there is abundant supply of new houses, slum clearance is only of limited value, and the punishment of overcrowding an absurdity. Assisted by grants from the Central Government, local authorities built 1,000,000 houses between the two wars. The recent war, however, brought building to a standstill, besides causing widespread damage and destruction: and today the carrying out of necessary repairs and the provision of new houses is the most urgent of all the problems of home politics. In 1945 and 1946, therefore, several Acts were passed, with the following objects: to restrict the use of building labour and materials to new building and essential repair; to organise the large-scale supply and distribution of materials; to enable local authorities to acquire land more speedily and to requisition empty houses; and to increase the subsidy paid to local authorities for every house built, with special provision for areas where the need is exceptional or the price of land unusually high. The Government took the view that the main instrument for housing must be the local authorities since it is these, rather than private enterprise, which provide houses to let at moderate rents, as distinct from houses for sale: and the main need for houses was among people who could not afford to buy. Private builders, therefore, must obtain a licence from the local authority for their work. The proportion of private enterprise to local authority houses is for the local authority to decide: the Labour Government favoured a proportion of one to four, its Conservative successor a proportion of one to one.

The appearance of temporary, pre-fabricated houses—the product of the engineering rather than the building industry—has provided some relief for the immediate post-war shortage. These are produced under the direction of the central Government, and allocated to local authorities in accordance with their need and the sites they have available. They are not intended to last more than ten years, and it would plainly be a mistake to produce more than a limited number lest they become an obstacle to the building of permanent dwellings. Perhaps more significant is the pre-fabrication of permanent houses, in which some progress has been made. If, in the future, house-construction becomes increasingly the task of the engineer we may be able to turn out houses in a

steady rhythm throughout the year, freed from the dependence on the weather which affects the traditional methods of building.

Since the advent to power of the Conservative Government in 1951 the trend of policy has been to reduce Council housing in favour of private building. The subsidies paid by the central government for each house or flat built have been abolished, except for dwellings to rehouse people from clearance areas; higher interest rates have made it more difficult for Councils to afford housing projects, and requisitioned dwellings have been returned to their owners. Even so, Councils continue to provide more than half the annual supply of new dwellings, and the resulting financial and administrative problems form a large part of Council work. The task of keeping a register of those who need accommodation and of allotting tenancies as fairly as possible, requires much tact and firmness. The extent to which Councils build at all, apart from the rehousing of those from clearance areas, now varies considerably from one locality to another according to local conditions and party policy. Councils have also to decide what rents to charge; some endeavour to charge, at any rate to their better-off tenants, a rent covering the full cost of providing the dwelling; others, concerned that the less well-off shall be properly housed, charge lower rents and meet the difference by a subsidy from the rates, within a limit prescribed by law.

PLANNING

The growth of population and the insistence on more spacious accommodation has led, for many years, to an increase in the size of towns. It is important that towns should not grow haphazard, without regard to the needs of the citizen for transport, recreation and amenities of all kinds; and in a country so small and thickly populated as Britain, we should see that all land is put to the best use. These considerations have caused both the central Government and the local authorities to concern themselves with town and country planning. An Act passed in 1932 laid down that local authorities might—and, if the Ministry of Health required it, must—prepare schemes for the land in their areas where new building is proceeding. In this way various sections of the land could be allocated for houses, shops, factories, open spaces, etc.; the character of new buildings could be controlled, and disfigurement of the countryside prevented. The work, however, proceeded slowly, and in 1944 a Ministry of Town and Country Planning was set up; it took over the planning duties of the Ministry of Health, but has now been absorbed by the Ministry of Housing and Local Government. Among the many difficulties which beset planning, two may

be specially noticed. First, it is doubtful how far our present local authorities, governing small areas and endowed with limited powers, are suitable instruments for the work. The second is concerned with the ownership of land. On the one hand, effective planning means the acquisition by the State or local authorities of a good deal of land for which the owner must be compensated. On the other, the development of a rural area into a town causes an increase in the value of land; both the State and local authority have a right to recover at least part of this "betterment" from the private owner, and the sums so recovered could be set against the compensation that will have to be paid. The problem is to produce an Act of Parliament which will give due weight to these considerations.

Meanwhile, an interesting new experiment has been launched with the passing of the New Towns Act, 1946. This empowered the Minister of Town and Country Planning to select sites for new towns and to set up, in each case, a corporation to bring the town into being. These corporations will plan the layout of their towns, establish industries, provide essential services and build houses into which will be drawn the excess population from overcrowded areas. Once its work is complete, the corporation will be dissolved and the administration of the town fitted into the general pattern of local government. By thus creating more small towns, we may hope to check the continual sprawling of our great cities, which compels people to live far from their work, restricts their access to the countryside, and causes congestion of traffic. Future generations may well praise this policy, but in the meantime the Minister will be in an unenviable position. A country-dweller may well approve the principle of new towns, but will hope that the selected sites may be anywhere but in his own district. It was scarcely surprising that at Stevenage, the first selected site, a majority of the residents opposed the project, though the Minister did receive the support of a considerable minority.

POVERTY, WELFARE AND CHILD CARE

The relief of the poor was originally the duty of the Parish, and later of Guardians elected *ad hoc* by Unions of Parishes. The 1929 Act abolished the Boards of Guardians and transferred their duties to the County and County Borough Councils.

Poverty, however, may be due to many different causes, and ever since the appearance, in 1909, of the famous Minority Report of the Royal Commission on the Poor Law, the aim of reformers has been to "break up the Poor Law," and to have the aged, the infirm, the unemployed and other groups each treated in an

appropriate manner. The National Insurance Act 1946 and the National Assistance Act 1948 achieved this aim: to a large extent, poverty is averted by social insurance, and such problem of poor relief as remains is dealt with by the National Assistance Board.

Public Assistance Committees of local authorities have, therefore, ceased to exist, but many authorities have Committees, generally called Welfare Committees, which help people in distress. Old people, for example, who have no one to take care of them and who, though infirm, do not need to be in hospital, may require someone to visit them regularly in their homes, or may be best cared for in an Old People's Home. There are also families who find themselves, for reasons that could not be foreseen, without a home: they cannot be put into new houses without unfairness to people who have been on the Council's housing register for a long time, waiting for a home; but some kind of temporary accommodation must be found for them. There are also, unfortunately, those who, though not mentally defective, are unable, through slowness of mind or perhaps mere fecklessness, to cope with modern life; some provision must be made for these, and particularly for their children.

Under the Children Act, 1948, County Councils are liable to be entrusted with the care of "deprived children"—that is to say, children whose parents are either unable to provide a home, or have been found by a court unfit to have charge of children. The councils usually perform this duty by placing the children in Homes managed either by the councils themselves or by voluntary bodies; alternatively they will find foster-parents, and this method has much to recommend it, since it enables the children to enjoy family life.

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H.M.S.O. *Education Act, 1944.*

MACKINTOSH. *Housing and Family Life.*

CHAPTER XIX

METHODS AND PROBLEMS OF LOCAL GOVERNMENT

- Finance
 - Rates
 - Grants-in-Aid
 - Municipal Property and Enterprise
 - Loans
 - Management
 - Committees and Meetings
 - Councillors
 - Officers
 - Parties
 - Relations with Central Government
 - Future Developments

FINANCE

The best-known source of local income is (1) *Rates*. These are levied by the rating authorities, which are the Boroughs and Districts. The Counties and Parishes secure their money by making a precept on the rating authorities, *i.e.*, requiring them to collect a certain amount in addition to their own needs. A rate is an annual charge levied on land and buildings, or hereditaments, as they are called, in proportion to their value. It has been the duty of rating authorities to determine this rateable value for all hereditaments in their areas, but the Local Government Act of 1948 transfers this task to officers of the Commissioners of Inland Revenue. This removes a long-standing complaint that the principles on which rateable value was assessed varied considerably from one area to another. When dealing with dwelling-houses the officers endeavour to determine what would have been the normal rent in 1939, and are guided by rules laid down by the Minister of Housing and Local Government. With other forms of property, the amount of money which the property earns will give a basis for calculation. When, from the values so calculated, deductions have been made to meet the cost of keeping the premises in repair, a figure appears known as the rateable value. Then, if the rateable value of a house is, for example, £100, a penny rate means that the occupier will pay 8s. 4d a year. Areas which contain depressed industries, and many poor and unemployed people, will clearly have the heaviest expenditure on social services; and the high rates which they are obliged to charge will discourage new industry. So the whole area may be caught in a vicious circle, the high rates and the poverty being both cause and effect of each other. Such a situ-

ation has been partly remedied by the de-rating policy of the 1929 Act, which provided that no rates should be charged on agricultural properties, and that factories, workshops, and freight transport undertakings should be reckoned at one quarter of their rateable value. The nationalised transport and electricity concerns cannot, for much of the property they own, conveniently pay rates to each local authority separately: lump sums are therefore paid to the Minister who allocates them to the local authorities.

The result of the valuing officers' work is a Valuation List which informs each owner of a property of the sum at which it has been assessed. Those who consider the assessment too high, or have any other ground of complaint can appeal to the local valuation court. The members of this court are drawn from a panel which County and County Borough Councils have to prepare, subject to the approval of the Minister. There is a further right to appeal from the valuation court to the County Court.¹ A new Valuation List is prepared every five years, and at any time a valuing officer or a property-owner may propose particular alterations in the current list; such proposals may become the subject of appeal to the valuation court. The 1948 Act was amended by the Valuation for Rating Act 1953, but the central idea, of a uniform principle of valuation throughout the country, was preserved.

Rates are paid by the occupiers of premises, and most occupants of smaller houses pay them, together with the rent, to the landlord, who hands them on to the local authority. If people find that rates throughout the country are rising they will be less inclined to buy or rent houses, and the slowing down of building will mean a smaller demand for land, and less rent for the ground landlord. So, though the question of the full effect of rates is disputed amongst economists, it can be said that any change in the rate is felt at first by the occupiers of the premises, but that in the long run the burden is shared between them and the ground landlords. One obvious injustice in rating is that the size of a man's house is not necessarily an indication of what he can afford to pay; a rich man may occupy a small house because he prefers to spend his money in other ways. The present system, however, is likely to persist, no doubt with constant modification, for some time to come, because of the difficulty of devising an alternative. If people were rated as they are taxed, according to their total income, would they pay to the local authority for the area in which they live, or where they worked, or where the property from which they drew their income was situated? No doubt it could be arranged that one

¹ See Chapter XV.

of these should collect the rate, and then make payments to the others, but the complexities would be great, and the advantages to be gained have not yet been shown to be large enough to make the change worth while. Another suggestion is to transform rates into a local tax on the value of land. This would provide the community with a satisfactory income, and any increase in the prosperity and land values of the area would directly benefit the local authority. Such a change would, however, greatly affect the use of land and would probably only be effected as part of a general reform of local government and town planning legislation.

(2) *Grants-in-Aid.* If a local authority keeps its roads in good repair, and its streets well lit, the people who benefit most are the local residents, and it is reasonable that they should pay at least part of the cost. But they are not the only beneficiaries; the population of Manchester, for example, is supplied with goods carried to it along roads in the care of the surrounding authorities. An authority which pursues an active education policy produces a supply of well-trained citizens who, as they grow older, may scatter all over the country. National and local benefits cannot be separated into watertight compartments, and in recognition of this fact the Central Government makes grants to the local authorities. Before the 1929 Act there were many separate grants, each for some service managed by the local authorities. The de-rating policy reduced the yield of the rates, so that some compensation from the Central Government was necessary, and this provided the opportunity for a general revision. It was decided that a General Aid Grant should be made by the Ministry of Health for the Health, Welfare, Highway and Public Assistance services. The complexity of the problem, however, is illustrated by the fact that the system of grants planned in the 1929 Act had not completely superseded the earlier arrangements before the outbreak of war, and further changes have now been made by the Act of 1948, the effect of which may be described as follows. If we divide the total rateable value of all properties in the country by the population, we get a figure of rateable value per head: if we make a similar calculation for each county and county borough separately, we find that some of them have a rateable value per head well below the figure for the country as a whole. To these authorities—which will be those where the inhabitants are poor or the population thinly spread—Equalisation Grants are made which now, together with the General Aid Grants and housing grants already described, come from the Ministry of Housing and Local Government.

The Ministry of Education grants to each local authority a percentage of its educational expenditure, the percentage varying with

the needs and difficulties of each authority; the education grant also meets the whole cost of school milk and nearly the whole cost of school meals. The principle that the grant should be a percentage of expenditure approved by the Central Government is adopted by the Home Office, and by the Ministries of Transport, Labour, and Agriculture for the services with which they are concerned, and by the Treasury for the task of compiling the Voting Register; the percentages themselves vary with the type of service.

(3) *Municipal property and enterprise.* Local authorities, like the Central Government, can own property, and carry on undertakings which bring in an income. Many towns receive rents from land, and under the 1932 Planning Act this practice is spreading. Charges are made for baths and similar services; it is not intended that these should cover the cost but they help to reduce the burden on the rates. But when the municipality runs an electricity undertaking, or a tramway service, it is expected that the charge will at least cover the cost. It may, indeed, be so arranged as to provide a surplus, but this means that the people who use the services are subjected to a kind of local indirect tax, which, if they form only a section of the community, will be unjust. Most municipal services are of a kind that the great majority of people use, and which would otherwise have to be run by a private monopoly. If, without charging higher prices than private enterprise would charge, the municipality can make a surplus, there is ground for general congratulation. The recent nationalisation of several public utilities has, however, caused a decline in these forms of municipal trading; but sometimes special Acts have enabled particular municipalities to run services other than those generally permitted. Most famous of these is the Birmingham Municipal Savings Bank in which nearly one-third of the city's population are depositors. When local authorities are carrying out street repairs or other work they can decide to employ "direct labour," *i.e.*, conduct the work themselves, instead of inviting tenders from private contractors. All these activities are the subject of controversy, in which some of the same arguments appear as in the discussion of the Capitalism-Socialism issue. But the immediate question for local residents is simply, who provides the service most cheaply and efficiently? The answer can only be found by examining the facts and figures of each case. If the evidence is in favour of the local authority, the citizens can enjoy either lower rates, or lower prices for the service; consequently, they will have more money to spend as they please, and so add to the prosperity of their area.

(4) *Loans.* Much of the expenditure of a local authority recurs every year, and must be met out of annual revenue from one of

the sources mentioned above. Often, however, building has to be done, or public services started or re-equipped, and the benefits of the capital expenditure will continue for many years—benefits either of added health and comfort, or actual money revenue. For such purposes, it is financially sound to borrow money, and the authorities do this by getting an overdraft from the bank like a private person, or issuing stock like a company, or mortgaging some of the municipal property. Since the repayment of loans is guaranteed by the Government, local authorities find that they can borrow more easily and cheaply than private concerns. Naturally, the law prescribes the purposes for which loans may be raised, and the conditions of repayment. For every loan permission must be obtained from the appropriate Government Department, which sees that the law is being observed, and approves the details. Most loans have to be repaid in sixty years or less, but for housing loans a maximum of eighty years is allowed.

Management. A County Council is compelled by law to appoint a Finance Committee, and other local authorities, except Parishes, almost invariably do the same. Every year, the other committees, in charge of activities which cause expenditure, frame estimates which the Finance Committee examines, generally trying to see if they can be reduced without fundamental alteration of the policy approved by the Council. The Finance Committee, in co-operation with the Treasurer, a paid official, has then to ensure that no money is spent except for the purposes which the Council has sanctioned, and to consider the raising of revenue. In March of every year, the chairman of the Finance Committee makes a speech to the Council, comparable to the Budget Speech of the Chancellor of the Exchequer. He describes the Council's policy, the expense which it involves, and the receipts from sources other than rates. From this follows the amount which the Council, if it is a precepting authority, will have to require from the rating authority. The latter must add these precepts on to its own needs, and decide what rate in the £ to levy. Economy, in local as in national Government, is in part the careful comparison of the benefits conferred by public service, with those which the individual ratepayers would obtain if the money were left in their pockets, and this is a question which divides parties. But economy is also the determination to see that a given standard of service is provided at the least cost. The Council will be helped in this part of its work if it obtains, from its officials, statistics of the cost of street lighting per mile, and the like. These can be compared with those of other authorities providing services of a similar quality; but they need to be supplemented by figures showing the advantages of the services to the

ratepayers—e.g., the numbers using the baths and public libraries, the death and infant mortality rates, and the prevalence of serious diseases.

The annual Audit helps to secure economy, but its chief purpose is to see that money is not devoted to projects which are *ultra vires*, beyond the legal powers of a local authority, or spent with such extravagance that the needs of the legal services are obviously exceeded. The country is divided into Audit Districts, each with an Auditor employed by the Ministry of Housing and Local Government. The Clerks of County, District, and Parish Councils, must present to him a statement of their accounts, up to the previous 31st of March. It must show all the money received and spent in the year, the separate figures for the different services, and the indebtedness of the Council. If the Auditor finds any illegal expenditure, he surcharges it, *i.e.*, requires the Councillors to pay it themselves; the Council can appeal from such a decision, either to the Minister, or to the High Court. The Audit is held in public, so that any ratepayer can attend, and express to the Auditor his opinion about the legality of any item. Some Boroughs submit their accounts to the District Auditor, others have and use the right of a separate Audit; two Auditors, not members of the Council, are then elected by the ratepayers, and a third is appointed from among the Councillors by the Mayor. A third method, for Boroughs, is to employ the services of a professional Auditor. All local authorities must publish a statement of their accounts for the ratepayers' benefit, and send in a return to the Minister of Housing and Local Government.

COMMITTEES AND MEETINGS

Local authorities are sometimes said to be administrative and not legislative bodies. Certainly they cannot alter the law of the land, and can only add to it such by-laws as the Government permits, and as are necessary for their work. But the phrase must not be taken to mean that they are mere tools of the Central Government. A council bases its actions on a series of decisions as to how far it will use its powers; the making of these decisions is comparable to a legislative act. Administration, however, predominates, and for this reason Councillors group themselves into committees suitable in size for detailed discussion. Some committees are Statutory, *i.e.*, the law requires them to be appointed. When the law designates the Council as the authority for a particular social service, it orders the appointment of a committee. For County Councils, there is a large number of Statutory Committees—Finance, Education, Health, Welfare, Agriculture, Fire Brigades

and several others; the lesser authorities, whether obliged by law or not, appoint committees for each important service. Among other committees usually appointed is one to recruit and keep in touch with the council's staff, and another—the Law and Parliamentary—to arrange for litigation, negotiate with the Central Government, and sometimes promote Bills in Parliament. After an election, the Councillors decide the membership of each committee according to their special interests; where the Council is divided on party lines, the proportions of the parties are preserved. The number of Committees on which one Councillor serves must depend on the amount of work and the size of the Council. A useful, if minor, reform of local Government would be to establish some proportion between these two factors; at present the size of Councils depends more on their past history than their present needs. Where the work is great, and numbers permit, it is convenient for a Councillor to serve on only one committee, and specialise in its work. In smaller Boroughs, and Districts, however, a Councillor can usually find the time and acquire the knowledge for two or three, and there is a certain advantage in this, since the work of some committees is closely inter-related. The Councillors on each Committee choose a number of ratepayers, not members of the Council, to work with them; these co-opted members join in the discussion and the voting, but may not number more than one-third of the committee. By this means the Council can get help from people whose work qualifies them to give advice on one of the services, but who are unable to become Councillors.

Each Committee elects its own chairman, but the choice has usually been determined in advance by the Councillors as a whole, or by the majority party. At its meetings, the committee receives reports from the Clerk and Treasurer of the Council, or their deputies, and from the officer concerned with their work. Thus they learn how their plans for expenditure are working out, and what items of Central Government policy affect them. Often the committees find it necessary to appoint sub-committees for such separate matters as supplies, appointments, estimates of expenditure, and special branches of the work, such as the medical work of an Education Committee. The reports of sub-committees are examined by the committees, who in their turn cannot make final decisions, but must report to the whole Council; reports are gone through, section by section, questions and discussion ensue, and each section is then either adopted as Council policy, or referred back to the Committee for further consideration. Most of the time at Council meetings is occupied by committee reports; in addition there will be correspondence to deal with, and the chairmen of committees

will be questioned as are Cabinet Ministers in Parliament. For all Councils there is a statutory minimum of four meetings a year, and other meetings may be called by the Chairman or Mayor or at the demand of several Councillors. County Councils may well find the statutory minimum sufficient; the Councillors often live far from one another, and the status of the Statutory Committees makes frequent Council meetings unnecessary. In the Boroughs, monthly, and sometimes fortnightly meetings are necessary, and when attendance at committees is added, the Councillor, even of a small Borough, must expect to spend at least one, if not two or three, nights a week on the work. The Councillor in a large County Borough will find that his duties make serious inroads into his time.

COUNCILLORS

It is appropriate at this point to repeat that Councillors are unpaid. So far as the smaller authorities are concerned, a politically healthy community should contain sufficient people willing to do the work from a sense of public duty. It is, no doubt, easier for a leisured person to be a Councillor, and there are probably a number of people who would make good Councillors, but are prevented by their hours of work. This problem is not, however, sufficiently serious to make payment necessary, and if it were introduced, it might attract less public spirited people into local Government. The ratepayers, also, would feel less respect for paid Councillors, and this sentiment is logical enough when the work can reasonably be done in spare time. The 1948 Local Government Act gives councillors the right to claim payment for the expense of journeys on necessary council work, and for loss of income which they would have earned if public duties had not occupied their time. Power is also given to district councils to make the chairman an allowance for the expenses of his office: the power of Borough Councils to pay a salary to the Mayor is old-established and widely used. The amounts which may be paid under the new Act are limited, and the circumstances which justify payment are precisely defined. Thus, without making council work lucrative, the Act should give the electors a wider choice: in the past, membership of the larger authorities has frequently been restricted to those of independent means, those who can control their hours of work, and some married women.

Women, both married and unmarried, play a larger part in local Government than in any other political field. This is partly because the system of unpaid Councillors could not work without drawing on this large supply of talented energy, but there are other important reasons. The organs of local Government were created at a

time when the prejudice against women in public affairs was weakening, and have been charged with work in which women have a special interest. Despite recent changes in social habits, the work of the majority of women is the running of a home and the care of children. Any deficiencies in the housing, health or education services are therefore more immediately apparent to women, and more constantly present in their minds. There has been much vague theorising, unsupported by facts, about the proper sphere for women. Professor Dicey, for example, in his famous work *Law of the Constitution*, justified the withholding of a Parliamentary vote from women on the ground that such a restriction "conforms to the nature of things." But without making this, or any similar unproved assumption, one may reasonably conclude that most women will be more interested in the domestic and social services which preoccupy local authorities than in, say, the organisation of industry, or policy with regard to international trade. Even this proposition must be stated with caution; the number of women in industry is growing, and trade policies affect the cost of housekeeping. As the facts now stand, however, it is correct to emphasise the greater prominence of women in local than in Central Government. The connection has been mutually advantageous; the local authorities have received valuable help, and the women have been able to demonstrate their capacity for politics. It is regrettable that many local authorities still have no women—or very few—among their numbers.

OFFICERS

The scope and complexity of local Government make it essential that the elected Councillor should be assisted by a paid staff, which may be divided into three groups. There is first the Clerk and the Treasurer, who, with their subordinates, form the Civil Service of the Town or County Hall. Their work brings them into contact with every department of local Government; by them records are kept, correspondence conducted, and the local Budget prepared. Someone must do this work for every authority, though in most Parishes it will not provide full time employment, and in some there may be no paid official at all. The second group comprises those with special knowledge of one department, e.g., the Director of Education, the Housing Officer, the Surveyor. Under the direction of each of these is an administrative staff, and teachers, works managers, and other specialised workers, not in such direct contact with the local authority. It is difficult to say whether the Medical Officer of Health should be placed in the first or second of these groups. He is certainly a specialist, a doctor by profession.

with a considerable technical staff under him. But there are so many activities in his field that he is in constant contact with the whole Council administration. Thirdly, there are manual workers, skilled or unskilled—builders, dustmen, tramdrivers, labourers, many of whom have not a definite status, but move between public and private employment. Councils are thus considerable employers of labour, and their behaviour as such is one of the points on which electors have to pronounce judgment. It is, however, the first group, and the administrative section of the second, who make up what might be called the local Civil Service. It is surprising and regrettable that there is no general agreement among authorities as to the recruitment and conditions of work of their servants. Efficiency varies a good deal, and salaries are affected quite as much by the views of the authority as by the nature of the work. There are, however, several factors at work, to improve this situation. A number of societies organise examinations in the various types of local Government work, and the results of these can be used as a guide by local authorities. The National and Local Government Officers' Association works to extend this system, and to bring some uniformity into conditions of service. Authorities may take advantage of an Act which permits them to arrange a Pension Scheme for their employees. Since it is certain that local Government activities will continue to grow, action by the Central Government on the whole question will soon be necessary.

Relations between the elected political chief and the permanent official have been discussed in regard to the Central Government, and most of the observations made apply also to local Government. Since the local Councillor is not only, like the Cabinet Minister, dependent on electoral fortunes, but also a spare-time worker, he requires as a rule even more help from his officials. The volume of legislation affecting local Government and the problems of finance can only be fully understood by those who have made the study of them a life work. The status of the chief officials is demonstrated by their attendance at committee meetings, and the extent to which their advice is sought and followed; this contrasts with House of Commons Standing Committees where the views of the Civil Servant must be expressed through the mouth of the Minister. If, however, the Councillor has the type of mind which can rapidly grasp facts and judge their importance, he need not be a mere figurehead. The permanent official can advise about methods, and warn about cost; but the making of constructive decisions rests with the elected politician. The law of the land provides maxima and minima of Council activity; it is the Councillors themselves who can determine policy between these limits.

Only if they are devoid of ideas, or lack the energy to study reports and agenda, will the locality be ruled by the officials. A Council which has a clear policy in view will not be hampered for lack of willing and competent officials, provided its conditions of service are such as to attract ability.

Since a Council has so many jobs to give, from that of Town Clerk to that of labourer, there is opportunity for corruption. Responsible posts can be given to the friends and relatives of Councillors, and work on roads and the like, to supporters of the majority party. A similar opportunity arises when contracts for public works are being granted; and a dishonest Councillor might, in return for a bribe, reveal the future intentions of the Council concerning purchase of property, to persons who stand to gain from such advance knowledge. The accusation that municipal Government is corrupt is not infrequently made, but it should be said that the amount of evidence produced is small. A large proportion of this gossip must be ascribed to the malice of disappointed contractors and defeated candidates for the Council, or to persons who lack interest in the public services and dislike paying rates. It is always open to those possessed of definite evidence to lay it before the Minister of Housing and Local Government. From time to time, however, cases arise which show that the level of honesty is not so high in local as in Central Government. The apathy of electors makes it easier for self-seeking people to become Councillors; the lack of a uniform system of staff recruitment permits the occasional entry into local Government service of officials who disgrace an honourable profession. The wiser Councils handle the problem by rigorous standing orders prescribing a routine to be observed by committees in dealing with contracts and responsible appointments; for ordinary labour they can instruct the surveyor to supply his needs from the Employment Exchange. If standard rules were universally adopted, the danger of corruption would be lessened; but the best remedy is increased interest on the part of the electorate.

PARTIES

The party system, which does much to stimulate public interest in Parliamentary elections, is to be found also in local affairs, though in a modified form. This is a natural, and in the main a desirable feature. In every human character is the conflict between the desire to preserve and the desire to improve, between caution and boldness, and as one element or the other predominates men and women are inclined to one or another party. This factor will operate in local as in national politics. From the account of the work of local Government it will appear that there are two main

questions in dispute—the desirability, first, of extending municipal enterprises, and second, of increasing the social services with the consequent increase of rates. These are simply the local form of the chief questions of home politics—the comparative merits of public and private enterprise and the wisdom of altering the distribution of wealth by collective action. Thus the Left, in local politics, stress the benefit of social services to the community, while the Right draw their attention to their effect on the rates. The Left advocate municipal trading, and the use of direct labour, the Right claim that these practices lead to inefficiency, and are an invasion of the field of private enterprise. The Left is, for the most part, the Labour Party, whose local and national propaganda is closely connected. The Right is usually designated Conservative, though other names, such as Municipal Reform and Ratepayers' Association, are sometimes used. On some Councils there is a Progressive Party, occupying a middle position; some contain a majority of Independents, whose policy leans in some respect to the Right and in others to the Left. For some years past there has been a tendency for the policies of all groups other than Labour to become unified, so that a two-party system is emerging. Election figures show that the local and national fortunes of the parties commonly move together, but there are numerous exceptions to this rule. Since local authorities cannot change the whole economic system, the Left gets local support from people who approve its attitude to social reform, but, not being Socialists, would hesitate to support it nationally. On the other hand the Left is handicapped by the difficulty of finding in its own ranks people with sufficient leisure, or—for County Councils—able to afford the expense. The Boroughs are the field of the keenest party contests.

The general advantages of party Government are apparent in local politics. Each side is spurred on to efficiency by fear of losing to the other; the interest of electors is aroused; the certainty of a majority in the Council enables the victorious party to plan its policy in advance. But it is not advisable that party strife should be as keen, or discipline as rigid, as in Parliament. Much of the business is administrative, not raising vital questions of principle, and if Councillors go to meetings resolved to try to score off the other side on every issue, from the rents on Council estates to the best method of sewage disposal, much time will be wasted. Fortunately, many Councillors realise this; voting without regard to party and constructive co-operation between parties are common, particularly in the informal atmosphere of committees. There is no exact local parallel to the Cabinet, dwarfing the individual Councillor's importance, and governing by means of a docile majority; though on the

larger authorities there is now a tendency for the chairmen of committees, meeting informally, to assume Cabinet functions. Matters often arise in which Councils with different political complexions can co-operate. While the level of the rates is a party question, the adoption of uniform methods of assessment by a number of Councils can be arranged on business principles. It is not uncommon for the parties on Councils to be very nearly equal in numbers, and when this happens co-operation is inevitable. These modifications of the party system strengthen the case for Proportional Representation in local elections; the same advantages can be claimed for it as in national affairs, while several of the disadvantages do not apply.¹

RELATIONS WITH THE CENTRAL GOVERNMENT

Despite the importance of local Government and the efforts of the parties, it is not usual for more than 40% of the ratepayers to vote; and while the proportion occasionally rises to one half, it can also be as low as one-tenth. Councils which do no more than the law compels, and do it without enthusiasm or imagination, help to perpetuate this apathy; but the chief responsibility lies on the elector, without whose consent the sluggish Council cannot exist. The activity of Councils and the scope of social services have increased gradually as need and opportunity arose, so that a great and beneficent work has been accomplished without the majority of the electors being aware of what was happening. Anyone who surveys the whole work of local authorities to-day, and tries to imagine it either undone or performed wholly by paid appointees of the Central Government, will need no further argument to induce him to vote. But while the spread of knowledge could do much, there is one reason, not so easily removed, for the electors' lack of interest. A bad local authority can cause inconvenience and danger, but in the last resort the State will always step in to avert disaster; at a Parliamentary election the consequences of a wrong choice may be much more serious. It seems, then, that the greater the independence of the local authority, the greater the electors' interest is likely to be. But there must be a limit to this independence if the Sovereignty of the State is to be preserved, and the social services lose much of their value if there are wide local variations in efficiency. Here arises, once more, the conflict between local pride and freedom, and centralised uniformity. A summary of the relations of local authorities with the Central Government will show how far this conflict is successfully resolved in Britain.

Among the forces making for centralisation is the Central Government's power of withholding grants when work is ill done, so

¹ See Chapter XII.

that the offending authority has to find more from the rates. While this measure can check extravagance, it will not punish slackness or reluctance to spend, unless the authority can be compelled by other means to render the service. Such means are found in the courts; for the authorities, being what the law calls corporate bodies, can sue and be sued like individuals. The Central Government may obtain from the High Court a writ requiring any neglect of legal duty to be repaired; and any private person who has suffered loss as a result of Council negligence can bring a civil action. In like manner, the courts are used to check action which is *ultra vires*. The Sovereignty of Parliament and the Rule of Law are thus manifested, since local powers and duties originate from Acts of Parliament, and are enforced by the courts. In health, housing and other services where neglect can have the gravest results, a J.P., or simply four ratepayers in the area, can invoke the aid of the Ministry of Local Government to hold an inquiry, and, perhaps, take over the duties itself. The Statutory provisions concerning meetings, committees and the form and audit of accounts ensure that in each area there shall be similar machinery whatever the extent to which it is used. Meanwhile the Central Government brings a constant influence to bear through its Inspectors. Not only are satisfactory reports from them the condition of Grants-in-Aid, but the resulting accumulation of knowledge shows what changes in the law have become necessary. Circulars acquaint local authorities with the policy which the Central Government wishes them to pursue, and if the latter finds its legal powers insufficient, it can always frame new laws. Occasionally if a local authority uses its powers in a way of which the Government strongly disapproves, a special Act will be passed handing over the powers to Commissioners appointed by the Central Government. This happened before 1929, to a few Boards of Guardians whose scales of relief were considered to be extravagant. Such a procedure destroys local Government: it is only suitable for an emergency, and could not easily be applied to a general, as distinct from an *ad hoc*, authority.

The lower limit of local Government activity is, therefore, fixed by the Central Government's opinion of what constitutes negligence, and the upper limit by its opinion of what constitutes extravagance. The amount of possible variation has already been noticed. For example, local authorities must provide education, but the quality of school equipment is largely their own affair; they must take measures to deal with tuberculosis, but can determine the frequency of health visits for this purpose. Such differences of degree, throughout all the services, provide the issues on which local elections are fought. Some Acts, or parts of Acts, are Adop-

tive, i.e., the local authorities may resolve to use the powers if they wish. The Adoptive Acts do not create completely new activities, but give legal authority for extensions of the main service, e.g., the provision of public baths and cemeteries as additions to the health service. Often, the local party majority is at variance with the Central Government. The Labour Governments of 1924 and 1929 had to deal with many anti-Labour councils, and in 1937 about one-third of the County Boroughs were controlled by Labour, which was by then the Opposition in Parliament. Although friction is caused, there is no deadlock, and the country is on the whole likely to benefit from the check on extremism. The problem is well illustrated by the events of 1931 and 1932. The Central Government was resolved to cut down public expenditure, both national and local. Opinions on the merits of this resolve might differ, but it was the basis of Government policy, and the Government had a Parliamentary majority. If the local authorities could nullify the will of Parliament on a matter of this nature, the whole machinery of Government would stop. But when the actual economies required of local authorities, particularly in the public assistance and education services, were proposed, there was considerable opposition, often cutting across party divisions. Some of the proposals were modified, and, when the dust of battle had subsided, it was clear that though the Government had achieved its object, the policy had been improved by opposition. To put the matter simply, Westminster and Whitehall must have the last word on finance; but it will be a wiser word if they have first listened to the opinions of Durham and South Wales on the needs of the unemployed. The same process could be discerned in the discussion on de-rating and Air Raid Precautions. A measure of independence in local Government is therefore of great value to democracy. It provides a legal channel for opposition, it improves the Government by criticism, it is an antidote to bureaucracy. By its encouragement of civic pride it evokes unpaid service, and so reduces the cost of Government. The experience of local authorities who have made exceptional extensions of activity is a guide for future policy. Above all, it increases the number of people who have experience of administration, and are thus trained to criticise intelligently, and to value liberty.

FUTURE DEVELOPMENTS

The search for a good pattern of local government is unending. The best size of area for one service is not the best for all. Theoretically we could have different areas, and authorities elected *ad hoc*, for each service. Practically, such a device bewilders the electors

and gives to each election only a limited interest: it also hinders proper co-operation between services. We can give one group of services to larger authorities and another to smaller: and secure flexibility by requiring the larger authority to delegate to the smaller the everyday administration of some services, while retaining control of major policy. This is already done with education. A further difficulty arises when several towns have grown together and formed one great urban region. In these conurbations we must either create an authority so large as to lose the character of local government, or accept an arbitrary division into separate authorities of what is substantially the same area. Meanwhile, population changes cause boundaries to become out of date.

The Local Government Act, 1958, attempts to handle these problems. Delegation is to be continued for education, and extended to health and welfare services. Commissions, for England and for Wales, are set up to review the boundaries of counties and county boroughs. Five conurbations are named as "special review areas" in which the English Commission is given further powers to recommend boundary changes for urban and rural districts, and possibly a general reorganisation of powers and boundaries. Elsewhere, County Councils are to review district and parish boundaries. Following this work by Commissions and Counties, the Minister of Housing and Local Government may make Orders, subject to approval by Parliament, for such changes as he thinks best.

The Act also plans two financial changes. Full employment has made the derating of 1929 inappropriate: so industrial and freight transport undertakings are to be rated at one-half instead of one-quarter of their value. Secondly, for education and a group of lesser services, authorities will receive a block grant determined by their population, number of children, and other relevant factors. The present principle, whereby an authority receives in grant a percentage of its expenditure on each service, is to be abandoned. This means that an authority which restricts the service to the minimum the Government will tolerate will be able to use every £ it saves for reducing its rates: at present such restrictions would save ratepayers about 8s. and the central Government 12s. Opponents of this plan argue that it will encourage meanness and penalise public spirit; and that a child's educational opportunities will increasingly vary from one county to another. Supporters argue that the change will place greater responsibility on local authorities and thus stimulate interest in local government.

BOOKS :

- *SIR E. SIMON. *A City Council from Within.*
- MORRELL AND WATSON. *How York Governs Itself.*
- L. HILL. *The Local Government Officer.*

CHAPTER XX

LONDON

The City
The London County Council
Finance
Education
Housing, Health, Welfare and Safety
Development
General Problems
The Metropolitan Boroughs

In the early Middle Ages, London held pre-eminence among English cities because of its nearness to the larger civilisation of Europe. Those Kings of England who had great interests in France found it a convenient capital; the presence of the Court provided a market. The fact that London was a port, which has at all times been of first importance, gained fresh significance when the discoveries of the sixteenth century made Western Europe the centre rather than the edge of the world. While the Industrial Revolution increased the importance of the North of England, it also swelled the number of artisans in London; and the development of a world economy added yet again to London's importance as a centre of trade and finance. To-day there is still the old "City" keeping its boundaries, street names, and forms of Government much as they were centuries ago, but crowded with banks, with insurance, shipping and trading companies, and financial houses, so that the words "the City" denote not so much a place as an economic institution. Round this City have grown the dwellings of millions, rich and poor, who get their living from the town's commerce and industry, or by ministering to the wants of their fellow citizens; systematic Government for this huge district dates back only to the last century.

THE CITY

The City is divided into twenty-six wards, each of which returns, according to its size, a number of Councillors to the Court of Common Council, elected by those with residence or business qualification in the City. In addition to the two hundred and six Councillors, who are elected annually, the Court of Common Council contains twenty-six Aldermen, elected directly by the citizens, and holding their office for life. These, together with the Lord Mayor, form a separate Court of Aldermen. Another body the Court of Common Hall, is composed of the members of the

Court of Aldermen and the Liverymen of the City Companies. These Companies are the descendants of the Mediaeval Guilds of Craftsmen and Merchants. To-day they have none of the old duties of regulating the conditions under which work was carried on, nor do the members of a Company all pursue the same occupation; they are associations of wealthy men, partly for social purposes, and largely to manage charities. Each Company fills the vacancies in its ranks by electing new Liverymen in accordance with its own rules. Thus composed, the Court of Common Hall has the annual duties of electing the Sheriffs, and of selecting two Aldermen from whom the Court of Aldermen will make a final choice of Lord Mayor; the general rule is for this office to pass by seniority among the Aldermen.

The Court of Common Council is, therefore, the real governing body of the city. It has all the powers which will be shown to belong to the Metropolitan Boroughs, though some of them it does not need to exercise. In addition, it has its own Police Force, Civil Courts, and Criminal Courts of Summary Jurisdiction. The latter are held at the Mansion House, the official residence of the Lord Mayor, and at the City's Guildhall, and are presided over by the Lord Mayor and Aldermen, all of whom are *ex-officio* J.P.s The Council looks after the bridges in the City and owns and manages much property, both within its own borders and elsewhere. The City itself, and some of the City Companies, control secondary schools; but this is not comparable to the ordinary local education service. The schools are Public Schools, they are not within the City boundaries, and they draw their pupils from a wide area. The sanitation of the Port of London and the markets near the City come under the Council's control.

The City is certainly a local Government area, but it is much more; it is a separate institution within the State, charged with functions which it has collected throughout its history, and which, through the prestige and power of its citizens, it has been able to retain. Many ceremonies illustrate its dignity—the Queen formally obtaining the City's consent before entering its confines, the Prime Minister speaking at the Guildhall Banquet held after the election of the Lord Mayor, the annual pageant of the Lord Mayor's Show. The Lord Mayor himself occupies a position similar in nature to that of ordinary Mayors, but surpassing theirs as the Mansion House surpasses a Town Hall. He is particularly noticeable as a contributor to and organiser of charitable funds, such as those for victims of floods. Under his auspices, civic functions are arranged to do honour to distinguished people. In time past, particularly in the reigns of Charles I and George III, the City played a notable

part in asserting the rights of the commercial community, and the liberties of citizens against attempts at royal despotism. Now that the struggle against the Crown is over, the City is a staunch supporter of the Conservative Party; there are no more such spectacles as occurred in 1771 when the Lord Mayor was conveyed to the Tower by order of a Government subservient to the King, to return thence in state amid the cheers of the people.

THE LONDON COUNTY COUNCIL

During the greater part of the last century, the districts outside the City were ruled each by its own Vestry or Board, and these bodies sent members to a Metropolitan Board of Works, which had been created in 1855 to handle those matters for which central control was essential. The 1888 County Councils Act drew the boundaries of the County of London, and provided it with a directly elected Council. Both the boundaries and the powers of this authority have survived, with minor alterations, to the present day. In 1898, there were created within the L.C.C. area the twenty-eight Metropolitan Boroughs—e.g., Poplar, Hampstead, Westminster—having subordinate powers.

There are at present forty-two Parliamentary constituencies within the London County Council area. Each of these beside returning one Member of Parliament, returns three London County Councillors. The whole Council is elected in April, once every three years starting from 1949, and the usual local Government qualifications are required for voters and candidates. The hundred and twenty-six Councillors choose, in addition to themselves, twenty Aldermen, who hold office for six years, half of them retiring at the end of a three-year period. The Chairman of the Council may be chosen—as was Lord Snell in 1934—from outside. At King George V's Jubilee in 1935 the Council prepared an exhibition illustrating its activities; the King marked the occasion by ordering that henceforward the Chairman should, like the Lord Mayor, bear the title Right Honourable.

The Council's committees resemble those of the great County Boroughs in the provinces. Its problems are in some respects greater than theirs, because of its size, and its powers in some respects less, because in the capital the Central Government judges it best to perform some functions, e.g., police, itself. In 1939 there was passed the London Government Act, which is likely to remain the basis of London's administration until some radical reform of local government is attempted. It is, however, the practice of the *General Purposes Committee* of the L.C.C. to promote each year, under Private Bill procedure, a General Powers Bill affecting both the

County and the Metropolitan Boroughs: this gives London, in effect a constitution subject to annual review. A picture of the L.C.C.'s problems may be obtained by reviewing the work of the more important committees.

FINANCE

The 1939 Act requires that the Council shall have submitted to it an annual budget, estimating income and expenditure, and the preparation of this is the task of the *Finance Committee*. Approximately one-half of the Council's income arises from Government grants and from ownership of property, the remainder being drawn from rates. Since the Council is not a rating authority it precepts on the Metropolitan Boroughs and the City. There has been some decline in rateable value as more people have gone to live in less crowded quarters outside the County boundary, though still working in London and using London's municipal services. This creates a financial difficulty and is urged as an argument for extending the L.C.C.'s boundaries. The Council has a large and growing debt, most of which has been incurred as a result of housing activity, and the Chairman of the Finance Committee has to study the Money Market, seeking the most favourable times for borrowing and for repayment. The Council is creditor as well as debtor, since it can lend money to the Metropolitan Boroughs, and, for many purposes, it is the authority to which they must apply for permission to borrow.

Part of the expenditure of the Council's income is in the hands of the *Supplies Committee*, purchasing food, fuel, clothing, stationery, etc. The Committee must decide where these supplies can best be obtained, and exercise continual supervision over the quality of the goods.

EDUCATION

The 1944 Education Act leaves the L.C.C., as it was before, the sole authority for all education within the County: but the enforcement of the Act will impose a heavy task on the *Education Committee*. The new work of raising the school-leaving age and developing the different types of secondary education comes at a time when war-damage has left London with a large programme of repair work if even present standards are to be maintained. Many new schools have been built, and the L.C.C. has decided, in its School Plan, to adopt the "comprehensive" solution of the problem of secondary education: this venture will be watched with interest throughout the country. It is not easy for London to provide playing fields within reasonable reach of its schools. Many secondary

schools have fields some distance away, which they can reach once or twice a week, while primary schools have often nothing but asphalt playgrounds supplemented by occasional use of public parks. Against these drawbacks, the capital enjoys certain advantages in education: it can outstrip poorer authorities in equipment, staffing and facilities for specialised education; it is rich in museums and libraries; and the presence of a huge population makes it practicable for the Council to supply a great variety of cultural and vocational education for those who have left school.

HOUSING, HEALTH, WELFARE AND SAFETY

In a country afflicted with a universal housing problem London enjoys an unenviable pre-eminence. In the years before 1939 great progress was made in re-housing and, if the war had been averted, there might well by now be no slums or overcrowding in London. The *Housing Committee*, and its counterparts in the Metropolitan Boroughs, now find themselves faced with long lists of applicants, to meet whose needs years of repair and new building will be required, even though the New Towns Act will in time relieve some of London's congestion. The L.C.C. has been a pioneer in new types of building, particularly of large blocks of flats and of permanent pre-fabricated houses.

The *Housing Committee* has also certain public health duties, but its functions here are limited, since the Metropolitan Boroughs are sanitary authorities.

The *Health Committee*, with a sub-Committee for *Mental Health*, performs the duties required by the National Health Service Act, and there is a *Children's Committee* as required by the Children Act 1948. The *Welfare Committee* meets, by means of homes, hostels and rest centres, the needs of the elderly and the homeless. Particular attention is given, in co-operation with voluntary organisations, to the needs of the blind, of whom the L.C.C. has a register of about 8,000.

The huge problem of London's sewage is in the hands of the *Rivers and Drainage Committee* whose responsibilities cover an area half as large again as the County itself. Further contribution to public safety is made by the *Fire Brigades Committee*, and by the *Public Control Committee*, whose miscellaneous duties include the maintenance of standards of health and safety in cinemas, hair-dressers' shops, and petrol stores.

DEVELOPMENT

Many of the difficulties of London Government are due to the haphazard growth of the town. Two Committees—those for *Parks*

and Highways and for *Town Planning*—are concerned with remedying the consequences of this neglect and averting similar problems in the future. Some progress had been made, before 1939, by the acquiring of open spaces to form a permanent "Green Belt" round Greater London. A new situation has been created by the damage done during the war, and the 1947 Town and Country Planning Act gives the L.C.C. wider powers with which to meet this opportunity. An ambitious Greater London Plan has been prepared, but its results will only be fully apparent after many years.

GENERAL PROBLEMS

The L.C.C. is an impressive example of the potentialities for good in English local Government. During the seventy years of its life it has been able to undo much of the evil done by centuries of neglect, and to show how the wealth of the capital might in part be used for the public advantage. So there has grown what at first sight seemed impossible—a consciousness, among four million people, most of whom live and work in districts remote from each other, of common citizenship and pride in collective achievement. In the fifteenth century William Dunbar described London as "The flour of cities alle"; three hundred years later, Cobbett described the sprawling growth as "the great wen." It is within the power of the L.C.C. to make Dunbar's judgment once more appropriate.

In sheer size, the Government of London resembles that of a State, rather than that of a local authority, and certain features appear in its methods of work, reminiscent of the Central Government. The leader of the party in power, and the leader of the Opposition have a recognised status, and enjoy the right to take part in discussion in any committee. The *General Purposes Committee* deals with urgent or exceptional matters, and, since it contains the chairmen of committees, can ensure that the work of all departments is co-ordinated. A still closer parallel to the Cabinet is found in the unofficial committee of the chief members of the majority party; this again will include the chairmen of committees, and is the body which plans in advance the policy which the General Purposes and other committees will execute. Such a method implies, if not a two-party system, at any rate the possession of a clear majority by one party, such as has always been found throughout the Council's history. From 1889 till 1907 the Progressives ruled London, and the Moderates were in opposition; the former party included a number of Socialists, and developed public enterprise to an extent which the Moderates claimed was undesirable. At the election of 1907 the Moderates laid great stress on the dangers of extravagance, and the need for "Municipal Reform" which thus

became the name of their party. They held power from 1907 till 1934; meanwhile the Progressive Party dwindled away and Labour became the Opposition. At the 1934 election, Labour claimed that the Municipal Reformers had pursued economy at the expense of essential public services. Labour secured a majority, which it still holds, on a programme of increased services, particularly in housing.

One feature of the Central Government—the elaborate procedure of Parliament—has fortunately, not been imitated by the L.C.C. Committee, and Council meetings proceed, as in a County Borough, with questions, discussion of reports, and consultation with the Chief Executive Officers. It has been found convenient to limit speeches to fifteen minutes, though further time may be granted. The Council may, on the motion of any of its members, resolve to hold an inquiry into any problem which has not yet come before it—for example the provision of municipal theatres and cinemas. This gives scope to the private member, and increases the Council's store of knowledge.

THE METROPOLITAN BOROUGHS

The County area, apart from the City, is divided into twenty-eight Metropolitan Boroughs. All the Councillors for such a Borough are elected at once for a three-year period in the May of the year after an L.C.C. election. They choose Aldermen to one-sixth of their number; these serve for six years, half retiring every three years as on the L.C.C. The Mayor is chosen as in a Municipal Borough, and enjoys the same powers and dignity, except that he is an *ex-officio* J.P. for his year of office only, not the subsequent year as well. Of the functions and procedure of these Councils there is no need to say much, they resemble closely those of the smaller Municipal Boroughs which have no separate Police Force or Commission of the Peace, and are not education authorities. They are the rating authorities for London, and compile the Voting Registers. Health services are shared between L.C.C. and Boroughs; the latter remove house refuse, prevent the adulteration of food, and carry out the inspections which are the basis of housing policy; some Boroughs have their own housing schemes. Street widening and improvement may be carried out by the Borough or L.C.C. according to the size of the scheme. In the provision of libraries, baths and laundries the Boroughs are independent. Nearly all supplement the work of the L.C.C. by providing parks and recreation grounds. In consequence of all these powers, London contains local Government within local Government. Despite the civic sense of London as a whole, the problems of, say, Hampstead and Bermondsey are

very different; if the residents in one area wish to give special attention to any service, and become pioneers for London, and if they are prepared to pay, it is desirable that they should have every opportunity to do so. The Boroughs have set up a permanent Joint Committee which tries to secure uniformity of administrative practice where it is desirable. In negotiations with the Central Government, this committee can voice such views as are common to all the Metropolitan Boroughs.

London is the outstanding example of a conurbation, and has the further characteristic of being the capital city. Its government is therefore exceptionally complicated. In addition to the general authorities so far described—the City, the L.C.C. and the Metropolitan Boroughs—we should notice some *ad hoc* authorities. Some of these, such as the Metropolitan Water Board and the Thames Conservancy, are composed of persons appointed by public authorities—the local authorities in and around London, and Government Departments. Others, such as the Port of London Authority, have some members appointed by public authorities and others by private companies. The County of London (though not the City) and large parts of adjoining counties, fall within the Metropolitan Police District. The policing of this area is the responsibility of the Home Office; an official called the Receiver raises the necessary money by precepting on the various rating authorities in the District.

The Local Government Act of 1958 does not attempt to remodel London government. Instead, a Royal Commission has been appointed to study the whole problem.

BOOKS ·

HAWARD. *The L.C.C. from Within.*

H MORRISON. *How Greater London is Governed*

CHAPTER XXI

THE SPECIAL FEATURES OF SCOTTISH GOVERNMENT

It has already been noticed, in Chapter VI, that special provision is made, in the Departments of Central Government, for the administration of Scottish Home Affairs, Health, Education, and Agriculture and Fisheries. The Judicature and local Government of Scotland are also distinct from those of England. The general considerations discussed in Chapters XVI, XVIII and XIX apply, broadly, to the whole of Great Britain, the differences being mainly found in the administrative machinery. These differences are in part due to the persistence of Scottish institutions older than the union of the two countries, and in part to the geography of Scotland, with her colder climate and more sparsely populated regions.

I. THE JUDICATURE

Scottish law, like English, is composed of Common Law, Statute Law and Equity. The Common Law is based on the principles of Roman Law, and did not suffer from the rigidity which the limited number of writs imposed on English Common Law. The Statutes are those made by the Scottish Parliament before the Union of 1707, and by the British Parliament since, except where it is stated that they shall not apply to Scotland. As in England, all three elements form now one system to be administered by the courts. In the arrangement of the courts, the distinction between civil and criminal law, and between greater and lesser matters may be observed.

In each County is to be found one or more Sheriff Courts, presided over by the Sheriff of the County and by Sheriffs-Substitute, on whom the bulk of the work rests. These courts have civil jurisdiction over all matters except divorce; their criminal jurisdiction is limited by the fact that they cannot try capital offences or impose sentences of penal servitude. In the larger towns, members of the local authority, sitting as *ex-officio* magistrates, in a Burgh Court, exercise similar powers; throughout the County, outside these towns, the Sheriff Court has jurisdiction. Crown officials, known as Procurators-Fiscal, conduct public prosecutions in these lower courts. There are no Coroners in Scotland, should the circumstances of a death warrant an inquiry, this is held by the Fiscal, who will decide whether further action by the authorities is necessary.

The Children and Young Persons (Scotland) Act provides for

the establishment of Juvenile Courts similar to those of England; but little progress has so far been made in this direction.

The highest civil court is the Court of Session, divided into an Inner and an Outer House. The First Division of the former contains the Lord President (the Head of the Scottish legal system) and three other judges; the Second Division contains the Lord Justice Clerk and three other judges; the remaining five Lords of the Court of Session constitute the Outer House. The Court of Session is, therefore, like the English Court of Appeal, a college of judges, separate groups of whom sit at the same time. It has jurisdiction over all civil matters and can hear appeals from the lower courts: there is a right of appeal from its decisions to the House of Lords.

The highest criminal court is the High Court of Justiciary, to which all the judges belong. It is presided over by the Lord Justice General, who is the same person as the Lord President. Five or more judges usually sit to hear a case. Each judge also goes round the country on Circuit, and these Circuit Courts of Justiciary, presided over by a single judge, are comparable to the English Assizes. Sometimes a judge in a Circuit Court will reserve a point to be decided by his fellow-judges in the High Court. It is only on points of law that the High Court of Justiciary will hear appeals from the lower criminal courts; nor is there any appeal from it to the House of Lords.

If a Scottish jury cannot agree, it may return a majority verdict. In criminal cases the verdict may be "Guilty," "Not Guilty" or "Not Proven." This last verdict, however, has the same effect as an acquittal; the prisoner goes free and cannot be tried again.

2. LOCAL GOVERNMENT

Scottish local Government, like English, was extensively reformed in 1929; the system then established together with some later amendments, is now comprised in the Local Government (Scotland) Act of 1947. Many parts of Scotland are so thinly populated that a small authority lacks resources for any but the slightest tasks; consequently much power is concentrated in the hands of the County Councils. Some of the County Councillors are elected by the Town Councils of all the Burghs in the County; the remainder are directly elected by the voters living outside the Burghs.

The Town Council of a Burgh is elected in the same manner as an English Borough Council. The Councillors choose one of themselves to be Provost (Mayor)—or, for the chief Burghs, Lord Provost—and others to be Bailies. The latter may be compared to Aldermen, except that they do not remain members of the

Council any longer than ordinary Councillors. It is the Provost and Bailies who exercise the judicial functions described above.

The Burghs can be classified historically as Royal, Parliamentary, and Police Burghs; but there is a more recent administrative distinction between large and small Burghs, the former being those with more than 20,000 inhabitants. The same gradation of powers appears as in England. Only the most important Burghs manage their own education; in other respects Royal and Parliamentary Burghs with more than 20,000 inhabitants are independent of the County Councils. None of the small Burghs manage their own police force, and the Police Burghs have powers very similar to those of the smaller Municipal Boroughs in England. There is a further resemblance to England in the fact that the powers of the County Council, as against those of the small Burghs, are on the increase.

The County outside the Burghs is divided into Districts. The District Councils contain not only persons elected as District Councillors in the usual manner, but also those who have been elected from that District as County Councillors. At most, a District Council may possess as much power as its English counterpart; but in practice its powers are such as the County Council, subject to the approval of the Secretary of State for Scotland, may determine.

It has already been pointed out, in Chapter VI, that there is poverty in many parts of Scotland for the same reasons as there were Distressed Areas in England; to this must be added the infertility of much of the land and the difficulties of transport. Consequently, Scottish local authorities find it difficult to maintain the social services. A greater measure of independence—perhaps a separate Parliament for Scotland like those of the Dominions—would mean an administration with more understanding of and sympathy with Scottish difficulties. On the other hand, an effort by a Government with the resources of Britain as a whole would be necessary if new industries are to be started and agriculture revived. Possibly the solution is to be found in Regionalism, the Regional Administration for Scotland being given special powers and assistance to develop the country. The work of the Swedish Government in developing its own northern districts, or of the U.S. Government in the Tennessee Valley, might serve as examples

PART FIVE
BEYOND THE UNITED KINGDOM
CHAPTER XXII
FROM EMPIRE TO COMMONWEALTH

Growth of Empire
India
 Conditions of the Problem
 British Rule
 India under the 1935 Act
 Independence and Partition
Colonies, Past and Present
 Advance to Self-Government
African Problems
Mandates and Trusteeship
The Middle East
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GROWTH OF EMPIRE

In the history of Britain, as in that of many other nations, there have been times when sections of the population found it difficult to get their living at home, and hoped for better prospects overseas. They might be members of the aristocracy who, being younger sons, did not inherit land, or small farmers squeezed out by the growth of great estates; on the disbandment of the feudal armies, there were many who were used to an adventurous life, and whose departure was a relief to the Government. Political and religious persecutions sent abroad others, of whom the Pilgrim Fathers are the most famous. Princes desiring new lands, and owners of capital seeking a profitable investment, encouraged colonisation.

From the start, merchants and manufacturers in England regarded the settlements in the New World as valuable markets for English cloth, and as sources of supply of raw materials. The same desire for trade led many European powers to establish outposts along the African route to India, and in India itself; thence came also a supply of luxury goods. For more than two hundred years, Imperial Powers tried to monopolise the markets and supplies of their possessions, and the English "mercantile system" was a mass of import and export restrictions, which became increasingly complicated as now one, and now another industry succeeded in influencing policy. But while certain sections benefited, the final effect was to check enterprise, and the colonists suffered because they could not buy and sell as they pleased; indignation on this account was

one cause of the loss of the American Colonies. Adam Smith's *Wealth of Nations* presented a powerful case against trade restriction, and his arguments gained all the more weight when Britain, having anticipated other nations in the application of power to industry, found herself anxious for wider markets, in which she could meet competition with ease.

In the nineteenth century, world-wide mechanisation of industry stimulated the growth of Empires. Britain's competitive advantage impelled other nations to bring territory under their control, and reserve its markets for themselves. The development of industry by those nations made Britain doubtful of her Free Trade policy. Meanwhile, the increase of production and of large fortunes intensified the search for markets and supplies, and for lands with undeveloped resources, where capital might profitably be invested. India, Africa and Australia, only the fringes of which had been touched in the eighteenth century, were extensively developed; Germany and Italy which had only recently become great Powers, and, beyond Europe, the United States and Japan, joined in the search. Imperial rivalry threatened the peace of the world, and each Power became more anxious to have under its political control the materials necessary for war.

From these facts arose the theory of Imperialism. The motive for seeking Empire was the advantage of people in the Mother Country, particularly merchants and manufacturers, and the methods were frequently those of cruelty and treachery. But in many instances the results were advantageous, both to conqueror and conquered, and to mankind as a whole. The Imperial Powers could put down barbarous customs, and introduce justice and education; the development of resources meant a greater plenty from which everyone might benefit. The problem is, how to apply knowledge and enterprise to the exploitation of resources, without at the same time exploiting human beings. In political controversy the parties of the Right emphasise the civilising influence of Empire—the creation of prosperous communities of colonists in lands once sparsely inhabited by ignorant peoples, and the gift of efficient Government to native populations; they urge also the opportunities for trade and emigration, opened to the people of the Mother Country. The Left quote examples of tyrannous rule, and argue that the whole people of the Mother Country are involved in wars and military expenditure to an extent which more than compensates for any advantage, except to a limited class of property owners. Both sides of the argument can be extensively illustrated from the history of British Imperialism.

A demand for self-government grew steadily in all the lands

under British rule. This goal was first reached by the countries in which there were large white communities; these have been recognised for a generation as Dominions, or Realms, of the British Commonwealth. The term "British Empire" is now usually restricted to lands owning allegiance to the British Crown and not fully self-governing. Since the last war the former Indian Empire has been transformed and divided into one foreign country (Burma) and two Commonwealth countries, the Republic of India and the Republic of Pakistan. The record of this development will serve to illustrate the changes that have befallen imperialism.

INDIA

Conditions of the Problem. A first step to the understanding of India is to appreciate her size and the variety of her peoples. India is not a country on the European scale, but a continent equal in area to Europe without Russia, and each of the separate Provinces is the size of a large European State. There are over two hundred native languages and dialects, though only about half a dozen have a very wide currency. Less than one per cent. of the population can use English, but this minority is to be found in all parts of India. As to religious belief, two-thirds of the people are Hindus, and rather more than one-fifth Moslems. There are smaller groups of Buddhists, Christians, Sikhs, Jains, and Parsis, and about ten million people following primitive cults. Most of these faiths involve much ceremonial observance, and festivals and processions sometimes provoke violent conflict between different religious communities; Hindu-Moslem antagonism has been a particularly difficult problem. An important part of the Hindu faith is the caste system. The "Aryan" peoples of North India, who invaded the country centuries ago, and built up a great civilisation, divided themselves into four castes, representing priests, warriors, traders and labourers; the darker skinned peoples whom they subdued, were "outcastes." By now the system has lost much of its original nature, and the number of different castes has greatly increased. The chief results to-day are, first, the privileged position of the Brahmins, the old priestly caste, between whom and the rest there is a greater difference than between any other castes; second, the presence, particularly in South India, of large numbers of outcastes, whose economic and social position is seriously depressed. In some parts of India they are excluded, so far as is possible, from any intercourse with their fellow human beings, and even their touch is regarded as a pollution. "Untouchability," however, has long been regarded by progressively-minded Hindus as a reproach to their

THE BRITISH APPROACH TO POLITICS

faith, the Government of the Republic of India has abolished it in law and is campaigning to make the abolition effective.

These differences make political and economic progress difficult, but they do not remove the need for it. Although there are many wealthy Indians, and many whose culture, learning and knowledge of the world are extensive, the mass of the people, whatever their race, language or faith, have poverty and ignorance in common. More than two-thirds of the people are occupied in agriculture, employing century-old methods, so that the productivity of the land is small. A landlord class takes a considerable proportion of the total wealth, and the peasant is commonly burdened with debt. Many labourers move, in their search for work, between the countryside and the towns, which must therefore give temporary shelter to many more than their permanent population. The conditions of work, and, still more, those of housing, would be regarded as intolerable in this country, though, since the establishment of the International Labour Organisation,¹ there has been some progress in Factory Laws. The poverty of India may be described statistically by saying that the average income of its inhabitants is 2s. a day, and that the mass of them get far less; this means not only a shortage of food, which is reflected in a heavy death rate at an early age, but an absence of those standards of sanitation and amenity to which even the poorest in Britain are accustomed.

British Rule.

British rule put an end to the internal warfare which once troubled India, and so paved the way for the investment of much British and Indian capital. The resulting Indian industrial revolution greatly increased the importance of two classes in Indian society—the urban workers and the commercial and industrial middle class. The latter, finding itself hampered by trade restrictions imposed in the interest of British capital, began to demand self-Government for India, and expressed that demand in the formation of a political party, the Indian National Congress. Meanwhile, the total wealth of India had grown enormously, but so also had the population. Religious customs, particularly those which depress the position of women, caused a high birth rate, and consequent pressure of population on subsistence. Nor had the Indian workers been able to better their position by trade union and political action as British workers have done. The British Government of India, in order to maintain its authority, was reluctant to rouse hostility by siding with native religious and social reformers, and endeavoured to remain on good terms with the wealthier classes. Only a Government representative

¹ See Ch. XXIV.

of the peoples of India could have the moral authority necessary for social and economic reforms.

The British Government recognised the need for representative institutions by a declaration in 1917 which stated that its policy would be "the gradual development of self-governing institutions with a view to the progressive realisation of responsible Government in India, as an integral part of the British Empire." It was here implied that India would become a Dominion; and while this was generally agreed to be the goal of British policy, there was much difference of opinion whether it should be reached within a term of years or decades. The 1917 declaration was followed by the Government of India Act, 1919, which set up a system known as "Dyarchy," i.e., the sharing of power between two authorities, the British-controlled Government of India, and elected Indian Legislatures. Many Indians, however, regarded these reforms as insufficient, and their discontent was manifested by a growth in the power of the National Congress. This party now drew support from all classes, and, though predominantly Hindu, it attracted a number of Moslems. Its object was *Swaraj*, i.e., self-rule—either complete independence, or at least Dominion status. Members of the Congress party who were elected to Legislatures did their best to obstruct the Government, and, throughout the country, refusals to pay taxes and other forms of passive resistance were organised. The most outstanding figure in the movement was the Mahatma Gandhi though his concern was not so much with politics as with the spiritual regeneration of India. In his interpretation of Hinduism he laid great stress on the doctrine of non-violence; his saintly and austere way of life gave him immense influence, with which he strove to prevent the campaign against the Government from taking a violent form. Some acts of terrorism, however, were committed, and the Government replied with measures which severely curtailed the liberties of person and speech, and of the press. The Police Forces, the rank and file of whose personnel were Indian, but under British control, found their powers increased, and used them in a way which created fresh ill-feeling. It was probably a surprise to many people in this country to learn from the remarks of a judge in an Indian court in 1938, that the police frequently tortured arrested persons.

Meanwhile, in 1927, the Simon Commission was appointed, to enquire into the possibility of a further step to self-Government. More dissatisfaction was aroused, because the Commission contained no Indian members. The publication of its report in 1930 was followed by a series of Round Table Conferences between British and Indians, and, in 1933, by the appointment of a Joint Select Committee of Lords and Commons, to whom were added

Indian representatives. A Bill was prepared, which became law as the Government of India Act, 1935.

India under the 1935 Act.

For Governmental purposes, India was divided into "British India" and the Indian States. The latter, containing about 75,000,000 people, were ruled by native Princes who were not subject to Parliament, but subordinate to the King in his capacity as Emperor of India. Their position was protected by the various treaties made at the time they came under British influence. The Viceroy was appointed by the King to be both Governor-General of British India, and His Majesty's Representative in dealings with the States. The Princes were able to rule their domains as they pleased, provided they did not display hostility to the British power, nor rule so badly that the resulting discontent was a menace to the peace of India. British residents attached to the courts of the Princes, exercised much influence over policy. No Indian State could have direct intercourse with a foreign power, but they consulted with each other at the meetings of the Chamber of Princes. Some of them maintained armies, but in co-operation with the general plans for defence made by the Government of India. In social and economic matters, the States as a whole were somewhat behind British India, though there were exceptions, where an energetic Prince had used his power to effect reforms more rapidly than the uneasy combination of British and Indians had been able to do.

British India consisted of eleven Governor's Provinces, each ruled by a Governor, a Council of Ministers and a Legislature with one or two Chambers. For the election of Legislatures, the Provinces were divided geographically, and the people in each area who belonged to minority communities—Muhammadans (though these were in a few Provinces the majority), Sikhs, Christians—were formed into separate constituencies, returning members of their own community. The remainder elected members to fill the "general seats," some of which were reserved for the depressed classes. The qualification for voting, resting partly on property and partly on education, was held by about one-tenth of the adult population; where second Chambers existed, the qualification for voting was such as to give an advantage to the wealthier classes. The Council of Ministers was intended, like a British Cabinet, to have the support of the majority in the Legislature, but the Governor might use his discretion, subject to the instructions of the Secretary of State, with regard to control of police, preservation of order and

protection of minorities: he also had power, in emergency, to govern autocratically by issuing proclamations.

The Provinces enjoyed a large measure of freedom from control by the Central Government. They had sole power over internal order, communications and water supplies, education, economic development, direct taxation and the control of trade in alcohol and drugs. Over civil and criminal law and over labour legislation their powers were concurrent with those of the Central Government, while the latter alone dealt with defence, foreign affairs, currency, the postal service, the main railways, sea and air transport, commercial law and the greater part of customs and excise. For the Central Government, the 1935 Act had planned a Federal Legislature which would have embraced both British India and the States, but the necessary conditions were never realised and this part of the Act remained inoperative. Power at the centre remained, in effect, in the hands of the Governor-General and a Council nominated by him: he in turn was subject to general directions from the Secretary of State, who was responsible to the British Parliament.

The effect of the Act was, therefore, to give Indians increased power and responsibility in the government of their country, and wider opportunity to gain experience in administration. It should, indeed, be remembered that the great majority of civil servants, judges and officials by whom government was carried on were Indians. Nevertheless, the over-riding powers of Provincial Governors, the Governor-General and the Secretary of State, together with the emergency provisions of the Act, put it beyond doubt that final sovereignty remained in British hands. Behind the Act there was, no doubt, the hope that as Indians grew accustomed to their increased powers, the exercise of British sovereignty would become less frequent and the way would open for a peaceful and complete transfer, to Indian hands, of power over a united India.

Two powerful factors prevented such a development. The first was a sharpening of the antagonism between the Hindu and Moslem religious communities. At the first elections for Provincial Legislatures the Congress party secured a clear majority in six Provinces, and in three others was the largest party. Although Congress contained men of all faiths, the great majority of its supporters were Hindus. Its chief rival, the Moslem League, claimed that Congress rule meant domination of India by Hindus; but the elections showed that there were many Moslems who did not support the League and were anxious that Indian political parties should not be based on religious belief.

When, however, Congress Ministries were formed and began

to govern the Provinces, there were enough examples of discrimination and favouritism to alarm Moslems and strengthen the hands of the Moslem League. Thus encouraged, the League put in the forefront of its programme the demand for "Pakistan"—i.e., a separate Moslem realm with territories in North-Western and North-Eastern India, where Moslems predominate. The successor to the British *Raj* would then be not one independent India but the two States, India and Pakistan. This demand was hotly resisted by Congress: tension between the two parties increased, rioting between different religious communities became more frequent, and the sound educational and social work done by some Congress Ministries received scant attention.

The second disturbing factor was the war of 1939-45. In 1939 the Viceroy proclaimed India a belligerent. Congress, incensed because Indian opinion had not been consulted, refused to continue working the 1935 Act. Congress Ministries resigned and government was carried on in some provinces with the help of non-Congress parties and in others by means of the emergency provisions of the Act. Although Indian troops played a distinguished part in the war, the political leaders were not prepared to give their support. In 1942, when India was in imminent danger from Japanese attack, the British Government sent a mission, headed by Sir Stafford Cripps, to secure Indian support in return for a promise of independence after the war, and a limited measure of immediate transfer of power. These negotiations, however, failed and the question remained for the Labour Government to handle in 1945.

Independence and Partition.

The policy of this Government was to implement the terms of the "Cripps offer," despite its rejection in 1942. The leaders of both Congress and the Moslem League were persuaded to form a Cabinet: so, for the first time, the major Indian parties acquired power and responsibility in the Central Government of India. After prolonged discussion a Constituent Assembly was formed to frame, if possible, a constitution for a united India, subject to the proviso that any province could elect to remain outside the Indian Union. Since the Moslem League, which had been greatly strengthened by the elections held after the war, declined to share in the Assembly's work, this proviso became increasingly important and in the end it appeared unavoidable that India should be divided.

In February 1947 the British Government announced that it would, not later than June 1948, make a complete transfer of power to whatever Indian Government or Governments should, by that

time, be able to accept it. The responsibility for reaching a settlement was thus placed unmistakably on the Indian leaders, and the good faith of Britain could not be called in question. This bold policy had the desired effect and a few months later there was an agreed scheme for partition and for the determination of frontiers between India and Pakistan. In July 1947 the Indian Independence Act was passed, conferring Dominion status on these two States and bringing to an end the suzerainty formerly exercised by the British Crown over the Indian Princes.

Great difficulties confronted the two new States. Pakistan consists of two areas, one in the North-West and the other in Bengal, separated by a great stretch of Indian territory. Both countries had to negotiate with the Princes: many of these continue to rule, in subordination to the new Governments, while the territories of others have been absorbed. The ultimate destiny of Kashmir, which adjoins both India and Pakistan, is in dispute; this fact, together with old fears and jealousies, has created such tension that both countries maintain armed forces of a size which strains their economy. The emergence of Communist China as a great Asian power is a further anxiety, but has given India the opportunity to act as a conciliator in world politics.

The constitutional change did not, of itself, deliver the people of India from the caste system, the moneylenders, the ignorance and the poverty which afflict them; but it provided the possibility of deliverance. The evils of Indian society have long endured, nor have two centuries of British dominance done much to remove them. They cannot indeed, be removed without profound changes in the religious and social ideas and practices of Indians; if the British *Raj* attempted to effect such changes it would arouse the hostility which any people will feel against an alien who endeavours to impose on them a new way of life. The emancipation of India from poverty and social injustice can only be accomplished under Indian leadership.

The record of British-Indian relations is therefore a vast object-lesson in the possibilities and limitations of Imperialism. The conqueror may be, at his worst, rapacious and tyrannical; at his best he may be a just judge, a firm guardian of the peace, a generous provider of material benefits; the institutions of his own country may be an example, the interchange of ideas between rulers and ruled may be a stimulus: but he cannot, by an exercise of power, implant in his subjects the dynamic will which breaks ancient tradition and privilege and opens the door to freedom and justice. That will must rise from the hearts and minds of the subject people

themselves, and once it has risen they will not consent to remain subject.

COLONIES, PAST AND PRESENT

Advance to Self-government. The Colonial Empire, which once contained 60,000,000 people in Africa, Asia and elsewhere, is now shrinking as one colony after another attains the status of a Dominion—or, in the modern phrase, an “independent sovereign state within the Commonwealth.” In 1957 the former colony of the Gold Coast became the independent state of Ghana. It has adopted a democratic Parliamentary Constitution, but gives a special position to certain tribal chiefs. Some of its population have become accustomed, through education and trade, to modern ways of life and government: others preserve African institutions and a simpler culture. The knitting together of these elements is not easy, and there are complaints that the Government now in power has dictatorial tendencies. The Government claim that they have a Parliamentary majority behind them, and are exercising the authority necessary for making a new nation. Since Ghana is the first example of full Parliamentary democracy in Africa, its success or failure in combining efficiency and liberty will be of great moment for all the peoples of the continent.

The group of former colonies and native sultanates in Malaya has also become an independent Federation in which modern democracy and older monarchies seek to live together. The former West Indian colonies now start a new chapter of their history as a Federation within the Commonwealth. There are not here such differences of history and culture as in Malaya or Ghana: but a precarious economy and the smallness of some of the units in the Federation create other problems.

Those British possessions, in Africa or Asia, the Pacific or the Mediterranean, which are still colonies, have varying degrees of self-government. All Colonies are subject to the Colonial Laws Validity Act, 1865, which declares that the British Parliament has power to make laws extending to the Colonies, and that no Act of a Colonial Legislature shall have any effect if it conflicts with a British Act. This does not mean that the laws of Britain and the Colonies are the same; in many Colonies, the right of attacking and criticising the Government is more restricted than it is here. But if the British Parliament chooses to state explicitly in an Act that the laws of Britain with regard to, say, freedom of public meeting, or any other matter, shall apply to any Colony, then those laws would apply, no matter what Acts the Colonial Legislature had passed. Because of this supremacy, the British Parliament is frequently described as the “Imperial Parliament.”

The right to vote is in many Colonies restricted to those who own a certain amount of property; and where, as in Africa, there is a small white population side by side with a large number of people of other races, the latter have little or no right of representation. Thus a grant of "self-Government" to such an area as Kenya would not mean democratic Government, but control by the white minority resident there. The Colonial Office takes the view that by maintaining its authority over these areas it secures an administration more in the interests of the whole population.

African Problems. British colonies in Africa include lands and peoples as varied in climate, resources, race, language and culture as are the countries of Europe. A broad distinction may be made between those territories, mainly in West Africa, whose climate discourages permanent settlement by white people, and those in East and Central Africa where white communities, of considerable size though much smaller than the African population, have been settled for some generations. In both these regions there are also communities of Asian origin whose members play a large part in trade and commerce.

British rule, and the consequent connection with the outside world, has brought to West Africa a wider market for its products and the benefits of science, education and law and order. The Africans remain in possession of their land and the absence of white settlers means that there is no grave problem of "colour bar." It is true that the standard of life is far below that of Europe and that dispute arises over the prices to be paid for African products by the trading concerns interested in this part of the world. Differences of race, language and religion among the Africans themselves hamper political development, and there is a wide cultural gap between the educated African who takes part in the administration and those of his fellow-countrymen whose way of life is still primitive. Nevertheless, there has been a steady advance towards self-government. The process which has been completed in Ghana continues in Nigeria. It cannot, in fact, be halted, since independence is now both the ambition of Africans and the accepted goal of British policy.

In East and Central Africa large tracts of land belong to Europeans but are worked by African labour. The settlers claim that but for them this land would be neglected and the whole country left to barbarism. The African, however, often regards the Europeans—and Indians—as immigrants who have intruded into his homeland, breaking up the tribal life which he understood, and subjecting him to taxation and discipline in order to provide a supply of labour. The problem is aggravated by laws excluding

Africans from certain occupations and forms of social intercourse, and by the fear that the white minority will try, as in the Union of South Africa, to keep the Africans in permanent subjection. The new Central African Federation, embracing the Rhodesias and Nyasaland, and governed by the white minority, is therefore regarded with great suspicion by Africans. Sometimes African hostility takes the form of armed resistance inspired by a desire to destroy the white population. The object of British policy should be to encourage the humane elements in all races to create a nation in which all can live on a basis of equality. It is not only races but cultures which have to be harmonised: to reconcile African ideas of land tenure with the needs of scientific agriculture, and the rules of African tribal government with representative democracy, is a task requiring statesmanship of the highest order.

Mandates and Trusteeship. At the end of the First World War the colonial possessions of the defeated powers were divided among the victorious allies, who were to govern them as Mandated Territories in the interests of the inhabitants, and to present to the League of Nations an annual report on their government. The Mandatory Power was required to prohibit abuses such as trade in slaves, arms or liquor and was precluded by the terms of the Mandate from using its position to increase its military strength or to discriminate against the trade of other nations. The intention was to make the control of these territories a responsibility rather than an advantage: by this means it was hoped both to protect the interests of backward people and to diminish the rivalry of imperial powers.

The Mandate system, together with so many generous conceptions, perished in the wreck of the League of Nations. The Charter of the United Nations provides for the establishment of a system of trusteeship which may carry on the work and could be extended to territories other than the former Mandates. There is no obligation on any power to place any territory under trusteeship; and although Great Britain has announced her intention to deal with some of her African Mandated Territories in this manner, the whole plan is still in its infancy.

The Middle East. Although the lands stretching from Egypt to the Persian Gulf are not part of the Empire they are of especial interest to Britain, partly because of the supplies of oil and partly on account of the sea and air routes to India and Australasia. The Kingdom of Irak was a British Mandate until 1932, when it became an independent State closely connected by treaty with Britain. Egypt, once held by a British Army of Occupation is now inde-

pendent, though Britain has maintained troops in the neighbourhood of the Suez Canal and has shared with Egypt the control of the Sudan, the territory south of Egypt through which flow the upper waters of the Nile. British troops have now left Egypt, the Sudan has become independent, and the Canal has become the property of the Egyptian Government.

Palestine, like Irak, was a part of the old Turkish Empire which became a British mandate after the 1914 war. Britain was required to promote self-Government among the Arab population there, and to establish in the country "a national home for the Jewish people." The reconciliation of these two objects of policy was perhaps impossible from the start: certainly it proved beyond the powers of the British administration. The Arabs complained that Jewish immigration, stimulated by persecution in many parts of Europe, was depriving the Arab of his land. The Jews replied that they had enriched the country and enabled it to support a larger population of both Jews and Arabs. Violent propaganda on both sides clouded the issue, while terrorism and repression darkened the history of the country. In 1948 Britain laid down the Mandate and withdrew; an attempt by Egypt and the neighbouring Arab States to destroy the Jewish population was defeated, and the new State of Israel came into being.

Meanwhile the whole Middle East is moved by the spread of industry and commerce with their incalculable effects on the social and political ideas of the poor and illiterate masses of the population. At present Britain regards the defence of this area as her responsibility, though for how long she can continue to do so is an open question. The great need is for the emergence in the Middle East of strong and progressive Governments capable of defending their territories and promoting the welfare of their peoples: the realisation of this hope is of great moment both to Britain and to the peace of the world.

Recent Developments. In the years immediately before the Second World War there was a marked increase in labour disturbances in many parts of the Colonial Empire. Inquiry was made, reforms were initiated and in several Colonies Trade Unionism among native populations was, for the first time, permitted and even encouraged. During the war the Colonies provided fighting forces, labour corps and materials which were of no little assistance; but it was clear that their help could have been infinitely greater had their peoples been better educated and their resources more fully developed. The Colonial Development Acts of 1940 and 1945 provided for the expenditure by the British Government of £120,000,000, to be devoted over a period of years until 1956 to

education, research and social and economic welfare generally, in the Colonies. This sum may seem small in comparison with the needs of the Colonies, but it was considerable in view of Britain's diminished resources after the Second World War, and is likely to be increased in the future. In any event, the Acts were a new departure in Imperial policy; they mark the end of the epoch when the Colonies could be regarded as an estate to be exploited, speedily and short-sightedly, for the benefit of particular groups in Britain. It was now to be Britain's task to pay for long-term development, and her reward would lie in the future when the prosperity of the Colonies should contribute to the welfare of the whole world.

At the end of the Second World War it was clear that Britain must continue steadily along this road. She could not claim to be a champion of peace and democracy if she stood between her Colonies and their freedom: and the increase of the productive powers of the Colonies was a useful instrument whereby, after 1945, the Old World might be saved from becoming the permanent pensioner of the United States. The last few years, therefore, have seen a double advance. In the less advanced communities of Africa progress has been mainly in the economic and social field as the Colonial Development Acts were enforced and provision was made for the ownership of land and minerals to pass into the hands of the native populations as a whole. Elsewhere, constitutional changes were made. Burma became an independent State outside, and Ceylon an independent State inside the Commonwealth. Changes were made in Malta and Cyprus, but both these islands, for different reasons, remain dissatisfied.

To put the problem in general terms, any association of peoples in which one people pursues its advantage at the expense of the rest has an uncertain existence based on force: the only permanent basis for such association is the joint pursuit of the interests of all. It is still true that many subject peoples in the British Empire could not immediately, if left to govern themselves, pursue their own interests successfully: but this imposes on Britain the duty of helping them to self-Government. The aim of Empire should be to transform itself into Commonwealth.

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CHAPTER XXIII

COMMONWEALTH CONSTITUTIONS

Status of the Dominions
Canada
Australia
New Zealand
Union of South Africa
The Republic of Ireland
Unity of the Commonwealth
Conclusions

STATUS OF THE DOMINIONS

The first great community of Britons and other Europeans to be established as part of the British Empire overseas was the North American Colonies; and the attempt to govern them without sufficient regard for the inhabitants' wishes resulted in their loss at the end of the eighteenth century. During the nineteenth century, when similar communities were growing up in Canada and Australia, the opinion was sometimes expressed that they too would separate from the Mother Country, and that the object of policy should be to arrange the separation with as little ill-feeling as possible. But it soon became apparent that there were solid advantages in preserving the connection. Migration to the unpeopled spaces overseas would be more attractive if the travellers knew they were not going to a foreign country; the investment of capital would be encouraged if it were known that the same ideas of law and property prevailed overseas as in Britain; and the growing populations would be a new source of power and prestige. But if the American mistake was not to be repeated, the overseas Britons must be given a generous measure of self-Government. They were accordingly provided with forms of Government on the British model, their status being defined by the Colonial Laws Validity Act; and while the Imperial Parliament thus preserved its supremacy, it was slow to use it. The 1914 War demonstrated that these Colonies, as they were still officially called, were nations able and determined to rule themselves; second, that their ties of history and kinship with the Mother Country were so strong that of their own choice they would act with her in a time of crisis.

These facts were soon reflected in an alteration of administrative machinery. In 1925 a new Cabinet Office was created, the Secretary of State for the Dominions. At first this post and that of Secretary of State for the Colonies were held by the same person; but there are now two Ministers and two separate establishments. In 1947

the title of the Dominions Secretary was changed to "Secretary of State for Commonwealth Relations." His office has charge of relations with Canada, Australia, New Zealand, the Union of South Africa, India, Pakistan and Ceylon. As the process of expansion of self-government, described in the previous chapter, continues, there is likely to be a further transfer of responsibilities from the Colonial Office to the Commonwealth Relations Office.

At the Imperial Conference of 1926 it was agreed that the status of the Dominions should be legally recognised, and in 1931 the important Statute of Westminster was passed. This Act states that the Colonial Laws Validity Act shall not apply to the Dominions, and their Parliaments have therefore the power to make what laws they please, each for its own territory. Thus, while the legislature for the United Kingdom is the Queen and the Houses of Lords and Commons, the legislature for Canada is the Queen and the Houses of the Canadian Parliament at Ottawa, and so throughout the Dominions. The Queen is represented in the Dominions by a Governor or Governor-General, and it is now recognised that he, like the Queen in Britain, will act on the advice of Ministers responsible to the Dominion Parliament. The Queen is thus the link between the Governments of Britain and of the Dominions; and in the preamble to the Statute of Westminster it is accordingly laid down that any Act affecting the succession to the Throne requires the consent of the Dominion Parliaments as well as that of the United Kingdom. This provision came into operation at the Abdication of Edward VIII. To this extent the Sovereignty of the Westminster Parliament is limited, and the Statute may be regarded as the beginning of a written Constitution for the Commonwealth. It is arguable in law that the Parliament which passed this Statute has power to repeal it, but in fact no such attempt would be made. Except for certain points expressly mentioned in the Statute, the Dominions possess complete power of self-Government.

CANADA

After the discovery of the New World, Britons and Frenchmen settled on the eastern fringe of Canada, and after the Seven Years War, (1756-1763) both communities were brought under British rule. There was further migration from Britain, and when the Thirteen Colonies proclaimed their independence, and became the United States, a number of people who wished to remain under British rule entered Canada. New Provinces, each with its form of Government prescribed by the British Parliament, were created. Disputes between Protestant Britons and Catholic Frenchmen hindered co-operation between the Provinces, though there was an

obvious need for combined effort to develop the untouched regions of the West. Accordingly, the British North America Act, 1867, set up a Federal Constitution for the Dominion of Canada, whose boundaries now reach to the Pacific. Each Province was guaranteed certain rights, and provision was made against the passing of laws which should interfere with the religious liberties of the French minority. The powers of the Provinces, however, are small, and over all matters that the Act does not definitely assign to them, the Dominion Government has power; the latter can also disallow any Acts passed by the Legislatures of the Provinces. In technical language, Canada is a Federal State, granting "residual powers" to the Federal Authority and having a rigid constitution, viz., the British North America Act. The Dominion Government, and the Government of a Province, acting together, can modify this Constitution in order to prevent inconvenient differences between the laws of separate Provinces; but fundamental alterations can only be made by the Parliament of the United Kingdom. This position is not changed even by the Statute of Westminster; but if a strong demand for the alteration of the 1867 Act should arise from Canada, it could hardly be resisted.

As the West of Canada was developed, successive Acts drew the administrative boundaries, so that there are now ten Provinces; the districts of the extreme North are Territories administered by the Dominion Government.

Executive power is in the hands of the Governor-General and a Privy Council, though from the latter a Cabinet is selected, functioning as does that of Britain. The legislature is the Governor-General, the Senate and the House of Commons. The Senate is an undemocratic body, whose 102 members must possess a property qualification. They are chosen for life by the Governor-General, the proportions in which they are selected being such as to strengthen the position of the smaller Provinces. Bills must pass through both Houses to become law, but the Senate does not as a rule press opposition very far. The House of Commons is elected in the usual manner; it may be dissolved by the Governor-General, and cannot in any event continue for more than five years.

It has often been remarked that the frontier between Canada and the United States is the longest in the world, and has no military forces stationed on either side. Both nations evidently regard conflict as out of the question, and this is a factor making for British-American friendship. Further, while Canada would not wish to attach herself politically to the United States, there is a strong economic connection. There is more American-owned than British-owned capital in the Dominion; there has been much migration in

both directions but chiefly out of Canada. Many Asians have entered the Western Provinces, so that the Dominion has, like the United States, adopted a policy of restricting such immigration. In framing foreign policy Canada is therefore inclined to lay more stress on the Pacific, and less on European affairs, than Britain.

Newfoundland was mentioned as a Dominion by the Statute of Westminster. Its people, however, have had a hard struggle with poverty, and much of the development of its resources has been carried out by British-owned capital, on which interest has to be paid. During the great slump of 1932 Newfoundland was, like all debtor countries, in great difficulty, as, with the falling prices of exports, it became impossible to obtain enough money to pay debts. The Dominion was brought to bankruptcy, and the help of the United Kingdom was sought. In 1934 Newfoundland lost its Dominion status, and was ruled by a Commission until, after the Second World War, it became the tenth Province of Canada.

AUSTRALIA

People from Britain had begun to settle in Australia in the early nineteenth century, and, as is well known, parts of the Continent were used for a time as penal settlements. The laws of Britain were then so harsh that by no means all those sent to Australia were serious criminals; but the policy did mean that there was no attempt to provide the new land with a population suited to its needs. Later came a larger stream of free emigrants, and, as in Canada, separate States were formed. Some of these began to block inter-State trade by tariffs, and the resulting inconveniences led to a desire for Federation. When in 1883 Germany occupied New Guinea, Australians began to consider more closely the strategy of the Pacific Ocean, and the need for a united defence policy. The Commonwealth of Australia Constitution Act, 1900, provided the States with a Federal Constitution, in accordance with which, subject to the Statute of Westminster and certain minor alterations, they are still governed.

The States enjoy greater independence than do the Canadian Provinces. The Commonwealth Government has control of armed forces, marriage laws, immigration, tariff policy, and some other economic matters expressly mentioned in the Act; but the States have "residual powers." As in the United States, the courts, particularly the Federal Supreme Court, will uphold the rights of States, and declare unconstitutional any law of the Commonwealth Parliament which infringes them. Consequently, many experiments in social policy have been made by the States—as also by the Commonwealth as a whole. There are at present six States enjoying

these rights, and two others, Central and Northern Australia, which, like the Territories of Canada, are controlled by the Federal Government. Despite the building of the impressive Federal Capital at Canberra, it has not been easy to keep the States together, because of their different economic interests, and the vast size of the Continent.

To alter the Constitution an Act must first be passed through both Houses of Parliament and then submitted to the vote of the whole people; if it secures a majority, both in each State, and in the Commonwealth as a whole, it becomes law. This device of submitting a proposed law to popular vote is known as the Referendum. It serves to keep elected assemblies subject to the electors' will. If extensively used, it has the drawback of weakening the Government; but when restricted to laws altering a Federal Constitution, it is a valuable safeguard of the rights of the Federal States. The Swiss Confederation makes use of it both for Constitutional and other laws.

The Federal Government is in the hands of the Governor-General and a Federal Executive Council, whose members must sit in one or other of the two Houses of the Legislature—the Senate and the House of Representatives. Both these Houses are directly elected by the people, but while the former contains an equal number from each State, the total membership of the latter, and the number of representatives from each State, depend on the population. The House of Representatives can be dissolved at any time by the Executive, nor can it last longer than three years without an election. The Senate is a permanent body, whose members retire in rotation; but if the two Houses disagree, they may both be dissolved, and after a new election a majority vote at a Joint Sitting, in which the Senate would be considerably outnumbered, decides the matter. As has been shown, the powers of the British House of Lords may be so used as to require an election on an issue disputed between Lords and Commons; the Australian Constitution gives definite expression to this principle of appeal to the people. The two Australian Houses have equal power, except over Money Bills; the Senate can only make recommendations about these; it cannot originate or amend.

The Commonwealth stretches over an area more than thirty times that of the United Kingdom, yet contains only about nine million people. Migration from Britain, which, from a glance at the map and the density of population in Britain, seems the obvious policy, is difficult to arrange. Much of the unpeopled space is barren through lack of rainfall, and though it might, at great expense be made more fit for habitation, it is hard to say what population

Australian could, under modern conditions, support. The Empire Settlement Act, 1932, led to co-operation between the Mother Country and the States of Australia, as a result of which a limited number of people were enabled to migrate with grants of money and land to help them. In 1936 the Overseas Settlement Board was set up as a Department of the Dominions Office to consider the whole problem. If world economic policy can be framed so as to provide greater security against slump, it may be that migration, both to Australia and to other Dominions, will be a larger element in British policy than heretofore. Meanwhile, the Australians are anxious to maintain a "White Australia" policy, *i.e.*, to prevent Japanese and other Asian peoples from settling in the Continent. Unless the white peoples can develop the area themselves, it will become increasingly difficult to resist future demands from Asia; but the Australians not unreasonably claim that they do not wish their standard of life lowered, nor their problems of Government complicated by the growth of communities living at the low standard now prevalent in Asia itself. This aspect of the Pacific problem causes Australia—and New Zealand—to take a special interest in foreign policy and Imperial Defence. Both Dominions have outposts in the Pacific, New Zealand obtained Samoa as a Class C Mandate, and Australia administered in like manner the former German possessions south of the Equator.

NEW ZEALAND

Shortly after Australia began to be colonized, further settlements were established in New Zealand. In the 1860's there were disastrous wars with the Maoris, a brave and intelligent people whom the colonists found in possession of the islands. Since then, more regard has been paid to their rights; they now form five per cent of the population, and live separately but on friendly terms with the whites. While both the history and size of Canada and Australia made a Federal Constitution desirable, New Zealand has a Unitary form of government. Until 1842 it was a Dependency of the Australian State of New South Wales. Since that date it has had its own Constitution, the essentials of which were defined by an Act of 1852. Executive power belongs to the Governor and his Executive Council, modelled on the British Cabinet. As a result of constitutional changes made in 1950 New Zealand abolished its Legislative Council and now has a Legislature of only one House, the House of Representatives elected for a three-year period: four of its members are Maoris, elected by their own people. This change to single-chamber government was made easier by the fact that New Zealand is a small, homogeneous country and,

unlike Canada and Australia, has never had a federal constitution. The fertile land and favourable climate are aids to prosperity, though New Zealand has experienced the difficulties common to all food-producing countries at various times. State regulation of industry and agriculture, and legislation concerning hours, wages, and conditions of labour, have been carried further in New Zealand than in any other part of the British Commonwealth.

THE UNION OF SOUTH AFRICA

Before the Suez Canal was made, the shortest route to India was round the Cape of Good Hope. From the sixteenth to the eighteenth century the great trading nations, Dutch, Portuguese and British, secured a foothold there. In the early nineteenth century, the Cape Colony came under British rule, and some years later, the British secured control of Natal. Large numbers of Boer (Dutch) settlers in the Cape, dissatisfied with British rule, journeyed inland and established two independent Republics, the Orange River, and the Transvaal; they also settled in Natal. Discoveries of gold and diamonds in the Transvaal attracted many British people. There they were known as "Outlanders," and though they paid taxes, did not enjoy the rights of citizens. The Boers maintained that they had created a civilized state out of African jungle, and saw no reason why they should enfranchise people who had come, after the difficult pioneering work was done, to enrich themselves. The Outlanders replied that their enterprise and capital had enriched the whole country. These differences led to the Boer War, by the end of which in 1902 the Boer Republics were part of the British Empire. There were thus four separate Colonies in South Africa. The need for common policy with regard to tariffs, the treatment of the native Africans, and the management of the publicly owned railways, led to the making of plans for Union. The Boer War had provoked much controversy in Britain; many of the opponents of the Conservative Government of the time maintained that it was an unjustifiable war of aggression, and that the Boers had been unfairly treated. The Liberal Government which took power in 1906 wished to pursue a conciliatory policy, and in 1909 the South Africa Act was passed, which turned the colonies into Provinces of the Union of South Africa, and gave the Union self-Government. Britain and Boer were placed on an equal footing, and their languages, English and Afrikaans, were given the same status for official use. The form of Government is not Federal but Unitary, though each Province has wide powers, *e.g.*, power of direct taxation, control of education, and separate franchise laws.

The Governor-General and his Executive Council are responsible

to a Legislature, which contains two Houses. The Lower House, known as the House of Assembly, has 159 members, 150 of whom are elected from the Provinces in accordance with their white populations. The maximum length of life of this House is four years. The Senate has eighty-nine members. Eight of these are nominated by the Governor-General, and must vacate their seats whenever there is a change of Government. The members of the House of Assembly for each Province then sit together with their Provincial Council, and elect, for a term of ten years, a number of Senators determined by the number of voters in each Province. Disputes between the Houses may be settled by a joint sitting. It is important to notice that only white people may be members of the Legislature. People of African race, and the "coloured" (those of mixed race) have no right to vote except in the Cape Province, and there under conditions which severely limit their power to influence the Legislature. The 2½ million whites thus dominate a total population of 12 million, and South Africa now pursues a policy of *apartheid* (segregation). Since European enterprises need African labour the two races cannot be completely separated: *apartheid* attempts to reduce intercourse to a minimum and to maintain white political and social supremacy. This policy represents a victory of Boer ideas over British. Though the coloured peoples of the British Empire are often in a state of subjection, it is the avowed policy of Britain that they should be given opportunities of education and progress, and that colour in itself shall be no barrier to advancement, even to the highest offices in the State. Whatever present practice may be, there is no place in Britain's theory of Empire for the view that coloured races should be kept in permanent subjection. South Africa, taking the contrary view, forms thus a distinct Empire within the Commonwealth. This may one day create a grave problem; for should the South African Government be involved in serious difficulties with its native population, it is hard to predict what public opinion in Great Britain would be. The very primitive and often unclean habits of many Africans in the Union make the problem, no doubt, exceptionally difficult, but whether this justifies a doctrine of permanent inequality is another question. The possibility of adding to the Union some adjacent territories, now under British rule, was envisaged by the 1909 Act, but the difference of opinion on native policy has so far checked the British Government from carrying out the transfer.

South African now treats as part of the Union the former Mandated Territory of South West Africa; it is not a Province, but elects six members to the House of Assembly.

THE REPUBLIC OF IRELAND

The conquest of Ireland began in the twelfth century and was not completed until the sixteenth. Although many settlements of English and Scottish people were made there, the native Irish have always formed the great majority of the population, and were treated by the English Government as an alien and subject people. The Catholic faith was persecuted, and Irish agriculture and industry were systematically ruined in English interests.¹ The age-long discontent with British rule reached its final climax after the 1914 War; it was argued that Britain, which at the Peace Conference championed the right of Eastern European peoples to self-Government, could not refuse it to the Irish. A dreadful process of civil war, murder and reprisal, continued until 1922, when King George V made a speech urging both nations to "forgive and forget." A Treaty² was made between His Majesty's Government and the leaders of the Irish Sinn Féin ("ourselves alone," *i.e.*, national independence) movement. Negotiations followed, and in 1922 the Irish Free State (Agreement) Act, created a new Dominion comprising all Ireland, except the Six Counties in the North East. Here lived the descendants of colonists settled by English rulers in the sixteenth and seventeenth centuries; their vigorous Protestantism made them unwilling to join with the Catholics of the rest of Ireland. The Irish Free State (Constitution) Act, 1923, gave to the Free State the rights enjoyed by the Dominion of Canada, except that the Irish Parliament could not make laws which contradicted the provisions of the Treaty. Chief among these were the recognition of the Free State's membership of the British Commonwealth, the Oath of Allegiance to the King required from members of the Irish Parliament, and the right of the British Navy to make use of certain Irish harbours. While many of the Irish accepted these terms, a large section declared they would be content with nothing less than the recognition of a completely independent Irish Republic. Such a Republic had been proclaimed in the Rebellion of 1916, and Mr. Eamonn De Valera, who since 1919 had been designated as President, led the opposition to the Treaty. A new and horrible Civil War between the two sections of the Irish broke out. The Treaty supporters were victorious, and for nearly ten years ruled the country. Mr. De Valera's followers reorganized themselves as the Fianna Fail (Comrades of Destiny) Party, and became a legal opposition. They drew support from those whose hostility

¹ For the legal and Parliamentary relations of the two countries, see Ch. IX.

² In law there cannot be a "Treaty" between the King and his subjects: the document is known, officially, as "Articles of Agreement for a Treaty"

to the British connection was strongest, and came in time to represent the interests of the less wealthy farmers. In 1932 they won an election, and Mr. De Valera proceeded to sever the links that tied the Free State to Britain. His work reached its climax in the promulgation of a new Constitution which came into force at the end of 1937, and in accordance with which the country is now governed.

By this Constitution, the name of the State was to be Eire and it is declared to include the whole country, though the authority of its Government is not to extend to Northern Ireland until an agreement with that Province is obtained. Thus is expressed Mr. De Valera's aspiration for a united Ireland in the future. A President, elected directly by the people for a seven-year term, appoints the Prime Minister and approves the latter's choice of Ministers, all of whom must be members of the Oireachtas (Parliament). This body has two Houses—Dail Eireann (Assembly of Ireland) elected in the usual manner, and the Seanad (Senate) of sixty members, eleven nominated by the Prime Minister, and the remainder elected. If the Senate and one third of the Dail object to a Bill, the President may if he wishes refuse his assent until a Referendum or a new election has been held. The President can also ask the Supreme Court to give an opinion on any Bill which he considers contrary to the Constitution, and if they hold it to be unconstitutional, it will not become law. The President has thus powers which distinguish him from the Queen in Britain, or Governors-General in the Dominions. On some matters he must consult a Council of State before acting, but is not bound by their advice. Some of the members of this Council are appointed by the President, others are members *ex-officio*. The Oath of Allegiance had previously been abolished and does not figure in the new Constitution. Special acknowledgment is made of the importance of the Catholic Church in Ireland.

Separation from Britain was now the aim of all parties in Eire, De Valera's opponents even outbidding him on this point. In 1949 two Acts came into force, the Republic of Ireland Act passed by the Oireachtas, and the Ireland Act of the British Parliament. The effect of these Acts is that the whole island of Ireland, except the Six Counties of Northern Ireland, is known as the Republic of Ireland and is declared, paradoxically but realistically, to be an independent state outside the Commonwealth, but not a foreign country. Citizens of the Republic of Ireland resident in Britain enjoy the vote, are liable to military service and can, if they wish, become citizens of the United Kingdom and Colonies. There is in fact much movement of citizens of the Republic of Ireland to and

fro between the two countries; the wider opportunities of employment in Britain, and the more generous social services, attract many people to spend at least part of their lives in this country.

The Ireland Act further lays down that Northern Ireland shall remain a province of the United Kingdom, and shall not be transferred to the Republic of Ireland unless and until the Parliament of Northern Ireland shall express a wish for such a change. This provision is a source of dispute, since many Irishmen contend that elections in Northern Ireland are so managed that the Parliament does not represent the people's wishes; but this is strenuously denied by the Unionists in Northern Ireland.

UNITY OF THE COMMONWEALTH

While Ireland has become a Republic outside, and India a Republic inside the Commonwealth, it should be emphasised that those countries which still describe themselves as Dominions, are also completely free from control by the British Parliament: their constitutions contain representatives of Her Majesty, but these have no more power than has the Queen in Britain. By what ties, then, is the Commonwealth united? First, by the Queen herself. All the citizens of the Dominions are her subjects; her representatives form part of the Dominion Legislatures. The importance of the Queen in Britain, despite the limitations of her prerogative, has been noticed. Though the Queen cannot personally take part in the social and ceremonial life of the Dominions, it is certain that the monarchy exercises as great an influence over the feelings and imagination of the Dominion peoples as over the people of the Mother Country. The example of monarchy in Britain shows that a tie of sentiment, though it defies exact description, does not lack strength. An important legal result of common allegiance is that the subjects of the Dominions are British subjects, and any of them who come to Britain are on an equal footing with British subjects permanently resident here.

Secondly, there is the Judicial Committee of the Privy Council. Some Dominions have restricted the right to appeal to it from their own Supreme Courts, and some do not recognise it at all. But it continues to transact much business, and at times, to settle inter-Dominion disputes. Some such body is certainly required by a group of nations between whom, in the course of trade and politics, disputes may arise, but who do not think of settling them by other than peaceable means.

This fact may be mentioned as a third and probably the chief link of the Commonwealth: that each nation in it, whatever its claims to independence, assumes as a matter of course, one limita-

tion on its Sovereignty—it will not make war on other nations of the Commonwealth. The whole people of the Commonwealth would regard such an event as unnatural and outrageous. Thus is the Commonwealth distinguished from any other form of political association. In the past it has been assumed that unlimited right to make war was an essential mark of a fully developed national State; the Commonwealth shows that this assumption need not always be true.

A fourth point follows from the preceding. The common feeling which prevents war within the Commonwealth suggests that all the Dominions would be united in war against a foreign power. In 1939 Eire proved an exception to this rule, and it was only by majority vote, after vigorous debate, that the Union of South Africa decided to wage war. Ill-feeling between Boer and Briton in that country has by no means disappeared and ideas akin to Nazism had made headway with certain sections of the people. Once in the war, however, the Union made great contribution of men and resources, as did the other Dominions. The Dominions were also a great service as sea and air bases : and Canada, in particular, provided a training ground for the Air Force out of reach of enemy aircraft. In 1940, when the British Commonwealth and Empire stood alone against the enemy, the support of the Dominions made an enormous, and perhaps a decisive difference to the position of Britain and the outcome of the war. Plans for Imperial defence continue to rest on the assumption of unity of the Commonwealth in the event of war.

A fifth link is economic. In the past, when Dominion Governments wished to raise loans their membership of the Commonwealth gave the investor in Britain confidence and opened the London money market to them on especially favourable terms. The injury done to Britain's economy by the Second World War has almost reversed this position, and in 1946 Britain was glad to raise a loan from Canada. All members of the Commonwealth look to each other as promising markets and sources of supply. At the Ottawa Conference of 1932 Britain and the Dominions agreed to grant preferences to each other's products—*i.e.*, to impose tariffs on foreign goods and lesser tariffs, or none at all, on goods from other British countries—and the Dominions were secured a favourable position in British Colonial markets. The Conference succeeded in enlarging inter Imperial trade, and its decisions were welcome at that time, when trade of any kind was slight. It would be unwise, however, to pursue this policy to a point where it restricted world trade as a whole. If Britain, in the future, finds herself in a world of high tariffs and restricted trade, she may be

obliged to make Imperial preference the basis of her commercial policy. If, on the contrary, a removal of these preferences could lead to a world-wide reduction of tariffs—in particular, the high tariffs of the United States—the case for such a removal would be strong. The unity of the Commonwealth cannot safely or successfully be sought at the expense of the rest of the world.

Various suggestions have been made for the framing of an Imperial Constitution, to extend the work of the Statute of Westminster, and define the position of Mother Country and Dominions more precisely. Reluctance to dissect a relation which seems to rest more on feeling than on material facts has so far prevented progress in this direction. Differences of opinion which now lie hid might be brought to the surface by the search for exact definition. Some machinery of Imperial administration has, however, proved necessary and useful. Each Dominion maintains in Britain a High Commissioner, whose connection with the Commonwealth Relations Office resembles that of an Ambassador with the Foreign Office. It is, further, the business of the High Commissioner's Staff to set before the people in Britain the economic possibilities of the Dominions, and to encourage trade, investment and migration. There are also the Imperial Conferences which have been held at irregular intervals since 1907. Britain is represented by the Prime Minister, who presides, and by the Secretary for Commonwealth Relations; Prime Ministers and other representatives of the Dominions attend. The agenda is settled by previous communication, and has contained matters relating to foreign policy and defence, Dominion status and trade.

CONCLUSIONS

When Commonwealth and Empire are considered together, the whole structure is astounding, and compels admiration for the statecraft of those who built it. The Dominion Constitutions in particular illustrate a power of adapting past experience to new conditions. Each of them bears a strong resemblance to that of Britain—a responsible Executive, a wide franchise, a two-chamber Legislature, a Cabinet linking Legislature and Executive. But each also contains distinct features—Federalism, the Referendum, joint sittings—ideas and devices alien to the Government of Britain. Frequently a successful attempt has been made to notice the real effect of the conventions of the British Constitution, and embody it in the written law of the Dominions. The idea that the British have a knack of muddling through rather than a grasp of the principles of political science, does not bear examination in the light of these facts.

One gigantic task remains: the extension of the idea of Commonwealth to the whole Empire. Englishman, Canadian, Australian, regard each other as fellow subjects and equals; how long will it be before they regard all the peoples under the British flag in the same light? Will the process which has given equal status in the Commonwealth to European and Asian communities continue until Africans enjoy the same equality? If this task is ever performed, there will emerge not merely an association of States, but a great society demonstrating the possibilities of co-operation among the peoples of the world.

BOOKS.

*JENKS *Government of the British Empire.*

BERRIEDALE KEITH, *Responsible Government in the British Dominions*

EGERTON *Federations and Unions in the British Empire.*

Statute of Westminster, 1931.

CHAPTER XXIV

THE WORLD

General Considerations
Causes of War
Problems of Policy
The United Nations :
 United Nations Organisation
 International Labour Organisation
 International Court of Justice
The Present Scene

GENERAL CONSIDERATIONS

So far British politics, both home and Imperial, have been described with as little reference as possible to other nations, and the reader may feel that this is altogether too insular an approach to a science which concerns all mankind. The world scene, however, is so vast and so varied as to bewilder the student unless he has acquired from examination of simpler facts some knowledge of the nature of politics. Survey of British affairs suggests two ideas which will help the comprehension of wider problems.

First, it is apparent that forms of government may be the product of the mere use of power or they may result from free decisions by the community as to the methods most conducive to its welfare. The older parts of the British constitution bear the marks of forcible creation; the present relation, for example, between Government and Parliament, is a monument to ancient struggles. In the fashioning of the more recent framework of local government the aim has been to devise suitable instruments for social welfare. Similarly, the British Empire, created by the use of power, shows a gradual but unmistakable tendency to change into a Commonwealth of Nations seeking their mutual advantage. To the British of the twentieth century political progress appears as a shift of emphasis from power to welfare, from the ruling of men to the administration of affairs. In world politics the considerations of power bulk large; international organs for welfare exist but do not attract the attention so much as the balance of national forces and the issues of peace and war. It is, therefore, natural to ask whether the task of world statesmanship is not that of promoting the movement from power to welfare.

Secondly, the history and working of British institutions demonstrate the importance of change as a factor in politics, which was mentioned in the first chapter of this book. As science changes the material background of human life, so political changes become

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Secondly, the history and working of British institutions demonstrate the importance of change as a factor in politics, which was mentioned in the first chapter of this book. As science changes the material background of human life, so political changes become

necessary; if they are not effected, violent conflict follows. Mankind must seek to create a community which is peaceful but at the same time vital and creative; which enjoys the harmony of the orchestra, not the peace of the grave.

The pursuit of these two aims is difficult enough in the limited fields of local and national politics. In the international field the difficulty is greatly increased by the division of the world into Sovereign States, each asserting a right to sole control of its domestic affairs and claiming an equality of status with all others. These claims cannot in fact be realised, states, like individuals, are impelled, for their mutual advantage, to make agreements with each other which limit their freedom of action; nor could any international organisation work on the assumption that, for example, the United States and Ecuador were equal in any but the most nominal and legalistic sense. The theoretical claim to sovereignty and the practical impossibility of its complete realisation result in a network of treaties and agreements and in the emergence of groups of States in each of which some major power plays the leading part. Obvious examples of this are the Pan-American group, the British Commonwealth and the group of Communist States, though there are great differences in the way these groups are formed and the relations between their members. A further restriction on sovereignty is the existence of a body of international law, based on first principles and past practice and given some degree of exactness by decisions of the Permanent Court of International Justice. A State, however, which has entered into a treaty may, by giving due notice, free itself from the obligations of that treaty, whereas an individual cannot free himself from the laws of the State in which he lives. Similarly, an individual cannot dispute the authority of his country's courts of law, while states can please themselves as to how far they will accept the jurisdiction of the Permanent Court. In many states it is possible for a majority of the citizens to change the law and to require the minority to accept the change, there is no international authority empowered to alter treaties and frontiers by majority vote. Still more significant is the fact that most states possess sufficient power or enjoy sufficient loyalty from their citizens to ensure that the law is enforced, in the world at large no comparable power exists to prevent breaches of treaties or of international law, and in consequence the possibility of armed conflict remains to overshadow the future of mankind.

All these contrasts spring from the fact that men still hold to an idea of national sovereignty which becomes increasingly unworkable in the modern world. Though the need to resolve this difficulty is

exceptionally pressing to-day, the problem is not a new one, and throughout history attempts have been made to resolve it. The Roman Empire, the medieval conceptions of the Holy Roman Empire and Catholic Christendom, the Napoleonic government of Europe, the British Commonwealth and Empire, the League of Nations and the United Nations can all be viewed as attempts to create a great society in which men of different races and nations could live together in peace. Even Hitler's infamous "New Order" was a sharp reminder that if a humane and wise solution to the problem of world unity were not found, a cruel and ugly solution would impose itself.

Yet for a real understanding of world politics we must look below the outward and legal form of sovereignty into the reasons for the existence of sovereign states. Mankind is divided into many races and mixtures of races; geography has imposed on different groups different ways of getting a living, and, in the course of history, change has proceeded at different rates in the various regions of the world. By these factors have the nation states, with their hold on the loyalties and emotions of their citizens, been fashioned and they are therefore at widely different stages of development. The countries with the most advanced industrial technique, constantly seeking opportunities for trade and access to raw materials, are brought into touch with simpler communities who have little sympathy with this ambition. Efforts to establish international standards in the treatment of labour or to promote the joint pursuit of welfare are impeded by the fact that social legislation which could easily be implemented in Britain would be unworkable among an illiterate population, and that a standard of life which millions of Asians would be glad to enjoy would be regarded as intolerable by the citizens of the United States. At present, science has done either too much or too little; it has prevented the nations from living each to itself without giving to them all a common background or similar way of life. The development of trade and of war has created a world in which events in China may be of vital concern to people in Britain or Africa; but the ways of life of these peoples remain so unlike that only a few in each group are so gifted with intellect and imagination that they can comprehend the desires of the other.

Loyalty to national sovereignties is not a mere perverse obstinacy. It is, rather, an unconscious belief in the minds of men that the affairs of their own country are about as much as they can manage, at least until the differences between countries are less marked and the affairs of their neighbours more easy to understand. Yet the need to bridge these differences remains. The object of policy, there-

fore, is not to frame a world constitution in disregard of national and continental differences; but to start from the present world of sovereign states, to draw their attention to the matters on which common action is essential and to frame the rules of such common action. In this process, there must be some sacrifice of state sovereignty and thus the way is paved for closer union.

CAUSES OF WAR

It is not surprising that in such a world, divided, unevenly developed, pre-occupied with power rather than with welfare, the fear of war should be constantly in men's minds. Indeed, war is older than recorded history, and this fact has led many to the fatalistic conclusion that it is an inevitable part of human life. It would, however, be a counsel of despair to accept this conclusion. In the past recurrent warfare has been tolerable because it did not involve the lives and absorb the energies of the whole population and because the destruction it wrought usually affected only a small part of the economic system. Modern invention has altered the scene, and a generation which has experienced the last two world wars is bound to reject as intolerable the idea of a future never free from either the threat or the reality of conflict. Consequently the task of international politics is to ascertain the causes of war and to frame the measures most calculated to remove those causes.

One group of causes is certainly economic, as shown in the war waged by Japan against China from 1937 to 1945. Japan was militarily powerful and ruled by a small wealthy class who possessed industries requiring markets, raw materials and cheap labour. The mass of the Japanese people had a low standard of life, multiplied rapidly and might in time become rebellious if their lot were not improved. It would have been possible for the rulers of Japan to have pursued a wise social policy at home; to have educated their people so as to increase their skill and with it their productivity, to have modernised their agriculture and devoted more of their surplus wealth to improving the technique of industry; to have found, in a rising standard of life for the masses, a market for industrial products. All this, however, would have required wisdom, patience and a willingness on the part of the ruling class to sacrifice their privileges. Nearby, however, was China with great natural resources, a hardworking population and poor armaments. The conquest of China appeared, therefore, to the Japanese Government, to be an easier solution and the result was a catastrophe for both nations, the full horror of which has not yet been fully appreciated by a Europe absorbed in her own disasters. Although

the potentialities of the social policy suggested above may be questioned, there can be no doubt that it would have served Japan better to have put into such a policy even half the effort which she put into the waging of war.

The Japan-China war has been chosen as a recent and exceptionally horrible example of war caused mainly by greed : but the same considerations apply, in varying degrees, to the wars waged in the past by Britain, France, Spain, Holland and others in the establishment of their empires.

One consequence of wars of this nature is that governments, even if they are not planning predatory wars themselves, live in fear of their neighbours. As a precaution, they assemble armaments and train forces, and each finds in its neighbour's preparations a justification of its own fears. It is, indeed, in the interest of those persons who make their living by the manufacture and sale of armaments that this state of universal fear should persist; and while this fact is hardly a primary cause of war, it is certainly an aggravating factor. As a further step in the pursuit of security, great nations seek to bring under their control those parts of the world from which they might be threatened, particularly if these regions are not themselves part of some powerful state. There are many examples of these strategic points which become danger areas in the world. Belgium, itself a small state, is a convenient causeway between France and Germany; Turkey lies across the Dardanelles through which attack might be launched either against or by Russia. In the years between the world wars the states of Eastern Europe had governments which, for the most part, were unfriendly to Russia and they were regarded by her as possible jumping off grounds for attack by the powers of Western Europe; now the position is reversed and these states are regarded by the West as outposts of a Russian advance. The peculiar importance of the Middle East has been noticed in an earlier chapter.

It is possible, then, for war, such as the Crimean war, to come because, among several nations, each decides that it must for its own safety control a particular area. This means that there are strategic as well as economic causes of war—or, to put it plainly, that fear as well as greed plays its part. As nations learn by experience that even successful war brings little economic advantage, these strategic causes are likely to become the more important.

There are, however, more intimate and less tangible factors at work than either economics or strategy. Plain John Smith, Hans Schmidt and Ivan Ivanovitch would be hard put to it to expound the economic and strategic requirements of their countries and

the difficulties of reconciling these requirements. But these three persons, and the millions they represent, know little of each other. Each knows, however, that the other two are "foreigners" and where knowledge is lacking, suspicion fills its place. Meanwhile, those who bear the responsibility for governing, aware of the barriers of mistrust and looking at the experience of history, see no alternative but to prepare for the worst.

Further, there is in every man a combative instinct, a desire to pit himself against difficulties and to surmount them. If it were not for this, the human race would scarcely have survived and achieved its successive triumphs over nature. No analysis of the causes of war would be complete which did not record that war provides fuller opportunities for satisfying this desire than we have so far discovered in peace. Students of human behaviour have noticed that suicide is less frequent in time of war; in war, every individual can feel that he is needed by the community and has a purpose in life. In some persons, as in Hitler, this instinct develops into a monstrous desire for power which nothing can satisfy. A world which seeks to avoid war must see that its system of education is such as to make unlikely the appearance of these warped minds, and such as to present in lively and attractive form those fields of effort in which men can create and not destroy.

PROBLEMS OF POLICY

The causes of war may, therefore, be briefly summarised as greed, fear, ignorance and pride. Fear and ignorance can be removed, greed and pride transmuted into legitimate ambition; but these are not tasks which can be performed overnight, and the danger threatening the world is that it will never get sufficient breathing-space to make the attempt. Policy must therefore start by framing measures, such as appear in the Charter of the United Nations to deal with any *immediate* threat to peace and to restrain aggressors. At this stage the nations are saying, in effect "There may well be just grievances in the world, but we rule out from the start any attempt to remedy them by armed force; because if we do not we shall all be involved in catastrophe and never have the opportunity to find a better method of removing injustice." The framing of effective measures against aggression will involve much exchange of information between Governments about their military strengths, and even agreement for international supervision of armaments. If this can be achieved mutual fears can be set at rest.

These steps, however, difficult as they will be to take, give no more than the required breathing-space. After the first world war

there was much talk of preventing aggression and securing respect for treaties. Germany then argued that the victorious powers naturally favoured such a policy since the international settlement, based on the 1919 treaties, was to their advantage; they were like a wealthy and privileged class, stout upholders of the law and order from which their privileges spring. This argument, however much overshadowed by Germany's subsequent actions, cannot be ignored. It draws attention to the fact that war, like revolution, has the function of destroying unjust and out-of-date arrangements. International organisations which seek to prevent war should therefore provide opportunity for the peaceful revision of treaties. A stubborn refusal, in the face of world opinion, to accept frontier alterations or to forego privileges can be in effect as much "aggression" as is an attempt to alter frontiers by force.

Finally, world statesmanship will strive to shift the attention and energy of governments towards the deliberate planning of welfare. In such elementary tasks as the conquest of famine, disease, ignorance and insecurity the amount which remains to be done is still far greater than that which has been achieved. In so far as the ambitions of men can be turned in these directions—in so far as the human race can find enemies outside itself on which to expend its fierce energy—so far is there a prospect of lasting peace.

These items—restraint of aggression, security, peaceful change and welfare—were all mentioned in the Covenant of the League of Nations. Man had the wit to diagnose the problem without the will to act on his conclusions. Nations desired peace but could not face the change in habits of mind and in the social order which were necessary to secure it: just so may a man desire health without the will to abandon over-indulgence. The United Nations have now replaced the League and we have now to examine their organisation and progress.

THE UNITED NATIONS

United Nations Organisation. As the second world war drew to its close, the Allies made plans for a new organisation to replace the League of Nations. The old name and the old seat at Geneva were avoided, because of their associations with failure and with bygone disputes between the Soviet Union and other powers; at the same time, the enormous influence of the United States and the growing importance of the Latin American countries made it natural that the new organisation should have its headquarters in the New World. The initiative was taken by Britain, Russia, America and China and all peace-loving states were invited to take part, a peace-loving state being defined, naturally if paradoxically,

as one which had, before a prescribed date, declared war on the Axis. Thus there came into being, by the end of 1945, an organisation from which the only notable absentees were the defeated states. An interesting feature was that White Russia and Ukraine, themselves constituent Republics of the Soviet Union, became members of the United Nations side by side with the Soviet Union itself. This laid the foundation of a group of like minded States, roughly comparable to those formed by the United Kingdom with the British Dominions and the United States with some of the nations of South America.

The United Nations Organisation provides for a General Assembly in which all States Members are represented and have equal rights. There is also a Security Council on which eleven states are represented. Britain, Russia, America, China and France are permanent members while the remaining six are elected by the General Assembly for a term of two years. In these elections a tendency has already appeared to ensure that such groups as the British Commonwealth, Latin America, Eastern and Western Europe, Asia and Islam are represented in the Council. A recommendation by the Council, approved by the Assembly, is necessary for the admission of new members into the Organisation or for the expulsion of any member persistently violating the principles of the Charter in which the purposes and constitution of the Organisation are set forth.

The General Assembly, which will normally meet once a year, is primarily a deliberative body. It may discuss any matter in the field of international politics; it may appoint committees, receive reports from the Security Council and other organs of the Organisation, reach conclusions and make recommendations, suggest measures for the peaceful settlement of disputes or the handling of situations likely to lead to disputes. The Assembly cannot, however, deal with such disputes and situations if they are already before the Security Council; nor, in any event, can it by itself compel any state to comply with its recommendations. Its real purpose, therefore, is to assemble before the eyes of the world all the facts necessary to the understanding of international problems, great or small; and to give all members of the Organisation the opportunity to state their views.

The main responsibility for keeping the peace rests on the Security Council, which is capable of acting at any time, since representatives of the states belonging to it are always present at the headquarters of the Organisation. Successive articles of the Charter of the United Nations set out the powers and duties of the Council in the event of any dispute, threatening situation, or

actual breach of the peace. In the first instance, the states concerned are required by the Charter to try to settle their differences by conciliation, arbitration or other peaceful means, and the Council may call upon them to do so. If settlement in this manner seems improbable, any member of the United Nations may bring the dispute to the notice of the Assembly or the Council and, as has been shown, if such a matter is before the Council, the Assembly is for the time being debarred from dealing with it. The Council, after reviewing all the facts, will recommend the procedure to be adopted for settling the dispute: if the parties concerned reject this procedure, the Council will itself put forward terms of settlement. Here the critical point is reached: if either party declines to accept the Council's terms, the world is faced with a direct threat to the peace. This stage may indeed be reached sooner if a party to a dispute ignores proposals for peaceful settlement and commits aggression—that is to say, armed defiance of accepted international law, existing treaties or decisions of the Security Council. In the event of such threat or aggression it is for the Council to call on all members of the United Nations to take whatever measures are necessary to restrain the aggressor and compel him to acknowledge the Council's authority. These measures range from mere severance of diplomatic relations to the full use of armed force.

Thus the Charter, like the Covenant of the League of Nations, embodies the idea of "collective security"—the idea that all nations have an unlimited liability to help in restraining aggression—and it is the Council's duty to translate this idea into fact. For this purpose there is established a Military Staff Committee consisting of the Chiefs of Staff of the armies, navies and air forces of members of the Council. This Committee is the servant of the Council and would advise it as to how armed force could most effectively be used, should the need arise. The Charter also envisages that members of the United Nations will place armed forces at the Council's disposal, and when this happens the Military Staff Committee will be responsible for their direction. Further, if the Organisation has so much success in inspiring confidence among its members that they commence serious discussions on the supervision and reduction of armaments, the Staff Committee will be available to advise them. Now it has already been argued that restraint of aggression and creation of such confidence as will favour disarmament are essential first steps to peace. It will, therefore, be possible to gauge the real progress of the United Nations Organisation by the amount of work entrusted to the Military Staff Committee, and the speed with which it is performed.

Decisions of the Security Council have to be reached by the agreement of at least seven of its eleven members; and unless the matter is merely one of procedure the concurrence of all the five permanent members is required. Any one of the great powers, therefore, can prevent the taking of a decision. This right of veto was inserted into the Charter on the ground that harmony between the great powers was an essential condition of the success of the Organisation and that it would be useless to try to legislate for a situation where that harmony did not exist. It is true that a party to a dispute is not entitled to vote when dispute is under discussion. If, then, a great power were a party to a dispute, the Council would presumably have the legal and moral right to deal with the dispute and, if it thought fit, to recommend action against the great power concerned. A more likely situation, however, is a dispute between lesser powers, each of which looked to a great power for support; here, the use of the veto might easily wreck all attempts at peaceable settlement. Further, the development of a dispute is usually gradual and an interested power would be able to keep it outside the Council's jurisdiction by obstruction at an early stage. One may hope that as the United Nations get more used to working together, the use of the veto will become rare; but there is little in the history of the Organisation, up to the present, to encourage this hope.

In general, the Assembly and Council reflect the present uncertain and ill-developed state of world politics. Formal recognition of "the sovereign equality of all members" in the Assembly is balanced by practical recognition of great power predominance in the Council. The veto comes near to presenting the world with the gigantic platitude that there will be peace as long as the great powers agree. Yet it does not follow that the Organisation is useless, it is, as its name implies, a necessary piece of machinery through which the will to peace, if there be such a will in the world, can express itself. Among the nations, as among the individuals of each nation, both the will to peace and the appropriate machinery are necessary conditions of civilised politics. The individuals who compose the British nation have a sense of loyalty and duty to each other without which the nation would fall to pieces, yet they cannot organise their affairs on a basis of mere goodwill and have accordingly built up a vast governmental structure. Mankind has by now acquired much skill in framing instruments of government, but has not yet developed a feeling of unity as strong as that which binds together the citizens of a nation. This explains the contrast between the elaborate drafting of the Charter of the United Nations and the uncertainty which is felt as to its success. None the less,

the instrument is there to be used; and the more it is used, the greater the chance that a worldwide loyalty will grow; for political loyalties are in large measure the creatures of habit and tradition.

The Assembly and Council are not, however the parts of the Organisation whose use is most helpful to this end, since their concern is with the examination of disputes and the wielding of power. For the development of good will we must look rather to the later chapters of the Charter, which deal with economic and social matters and with the responsibility of mankind for the welfare of the less developed peoples. The Economic and Social Council, composed of representatives of eighteen states chosen by the Assembly, is empowered to inquire into "economic, social, cultural, educational, health and related matters" and to submit recommendations and draft agreements on these topics to the Assembly. It has also the task of co-ordinating the work done in these fields by a large number of special bodies which have been set up from time to time by agreement between governments, or were offshoots of the League of Nations.

This Council has great possibilities. Many governments to-day desire to increase their social services and will be glad to have a convenient source of information about the experience of their neighbours. Effective legislation for the promotion of health and the suppression of social abuses frequently requires joint action by several governments. Scientific research can be pursued most economically and speedily if those who work at it are aware of what their fellows in other countries are doing. International agreement is needed if education is to be so framed as to develop in the new generation a feeling of world loyalty. The experience of Nazism has created a desire for an affirmation of the basic rights which any human being should enjoy in a civilised state; and the Economic and Social Council is specifically required to frame such a statement and make recommendations to secure its enforcement. The work of this Council, and of the specialised bodies which come under its eye, is not now as spectacular as the political work of the Security Council and the Assembly, but in the long view it is essential to the health of the United Nations Organisation.

There is also established as part of the Organisation a Trusteeship Council to deal with territories inhabited by people not yet capable of self-government. This is a successor to the Mandates Commission of the League of Nations which dealt with colonial territories taken from the defeated powers in the first world war. The principle of trusteeship is to apply to all such mandated territories as have not by now become independent states, to colonies taken from Italy and Japan in the second world war, and to any

territory which an imperial power voluntarily decides to place in trust. The assumption is that territories placed in trust will be governed in the interest of the native inhabitants and with a view to eventual self-government, but the precise terms of trusteeship have yet to be agreed and for the present the territories are administered by those powers which, through the fortune of war, find themselves in possession. It is for these powers to agree among themselves and present their conclusions for the approval of the General Assembly or, if the area is of strategic importance, the approval of the Security Council. When this stage is completed, each trust area will be assigned to some member of the United Nations, whose administration of the trust will be subject to inquiry and inspection by the Trusteeship Council, acting under the authority of the General Assembly or the Security Council. The Trusteeship Council consists of the five permanent members of the Security Council, all powers administering trusts, and such number of other members, elected by the Assembly, as will ensure that membership of the Trusteeship Council is equally divided between those who administer trusts and those who do not.

It is apparent that power and welfare jostle against each other within the framework of trusteeship. For example, the future government of Tripolitania affects both the welfare of its inhabitants and the balance of power between all those nations which border the Mediterranean or regard it as a vital part of their communications. The disposal of this territory was therefore watched with jealous anxiety by all the great powers; and while there are few trust territories as vital as this, there are none where strategic considerations are entirely absent. It is where such considerations are outstanding that the Security Council—the focus of power in the Organisation—will be the final authority.

In the development of trusteeship, as in economic and social matters, there is great opportunity for the United Nations. If the procedure described in the Charter is fully used, strategic rivalries may be allayed and the inequality of development between different sections of mankind may be remedied.

International Labour Organisation. The Peace Treaties of 1919 recognised the connection between peace and social justice by establishing the International Labour Organisation together with the League of Nations. The I.L.O. soon developed a vigorous life independent of the League and was joined by several states, notably the U.S.A., who were not members of the League. It has now survived the League and includes all members of the United Nations, though the U.S.S.R. has not so far taken an active part in its work.

The organs of the I.L.O. are a General Conference and a Governing Body. Each state is represented in the Conference by four delegates, two for the government, one for employers and one for employed. The Governing Body, elected every three years, has 32 members : eight represent the governments of the states of chief industrial importance, while another eight are elected by the government delegates to the Conference; similarly, the groups of workers' and employers' delegates each elect eight of their number.

The Governing Body decides what matters shall come before the annual meeting of the Conference; anything affecting wages, hours and conditions of labour may be discussed. The Conference, by a two-thirds majority vote, may adopt proposals and embody them in a Convention. This does not mean that the governments of the states belonging to the I.L.O. are obliged to put the proposals into force; but they must bring them to the attention of the Parliament, or whatever the sovereign body in their states may be. If that sovereign body agrees, the government will ratify the Convention and is then bound by it. There is some provision in the constitution of the I.L.O. for action against governments which fail to observe the Conventions they have ratified; but there is no great significance in this, since ratification is a voluntary act.

The I.L.O., therefore, involves no sacrifice of sovereignty, and must proceed by persuasion and example. Nevertheless, it has a good record of work, particularly as a lever by which the labour standards in backward countries have been brought nearer to those prevailing elsewhere. Many Conventions, notably those affecting women and young people or regulating the conditions of heavy and dangerous work, have been ratified and enforced. Nor are Conventions without effect if they are not universally or widely ratified, since they become standards to which the trade union movement throughout the world strives to attain : this was particularly true of the famous Washington Convention for a forty-eight hour week in industry. In general, I.L.O. discussions, like those of the Economic and Social Council, are calculated to stimulate the desire for better social conditions, and to provide the knowledge necessary for their attainment.

International Court of Justice. Before the first world war there was an international court of arbitration at The Hague; the Covenant of the League created a Permanent Court of International Justice; the Court now established by the Charter of the United Nations is the successor of these earlier bodies. Its members are persons of wide legal experience, chosen by the United Nations and its Statute, *i.e.*, its constitution, forms part of the United Nations

Charter. No state is obliged to submit disputes to the Court, but a large number, including Britain, have signed the "Optional Clause" of the Statute—that is to say, they have bound themselves to submit to the Court any legal disputes they have with states which have also signed the Clause.

The Court is a judicial, not a political body. When examining a dispute, it will endeavour to find out, by examination of evidence, whether any events which form the subject of complaint have in fact occurred; it will declare what principles of international law are relevant to the case, and what is the meaning of any relevant treaties. It does not go on to suggest what settlement might be best from a political point of view. For example, if two states claimed sovereignty over the same piece of territory, the Court would not inquire which of them could make the better use of it or provide the better administration for its inhabitants, but would answer the question "To which state, in the light of legal principles and existing treaties, does this territory legally belong?" The International Court, like all courts, declares what the law is, not what it ought to be.

THE PRESENT SCENE

The preceding catalogue of institutions has been necessary in order to describe such machinery of world government as does exist. In time, this machinery may operate smoothly and effectively, but at present it lacks the motive power which a widespread feeling of world loyalty could supply. There are some loyalties which cross national frontiers; Catholics recognise the authority of their Church, Moslems are concerned for the prestige of Islam, and Trade Unionists have common interests and a world-wide organisation. These loyalties have, on some issues, affected world politics but they neither unite the world nor challenge the authority of the national sovereign state. In recent years Communists of all nationalities have pursued a common policy with remarkable tenacity; Socialists in many countries have endeavoured to act together, while believers in Capitalism have, though to no very great extent, expressed community of feeling. These "ideologies," however, are each associated with a great power: the U.S.S.R. is the mainstay of Communism and the British Labour Party of Socialism, while the U.S.A. is the citadel of Capitalism. Present-day international affairs must therefore be understood in the light of the fears, needs and ambitions of the three greatest powers.

The Soviet Union fears that the non-Communist powers will one day unite to destroy her. Soviet statesmen remember the foreign help given to counter-revolutionary forces in the early years of the

Soviet Union : there is the more recent memory of the efforts made by some Western statesmen in the nineteen-thirties to turn Hitler against Russia rather than against the West. These lessons of experience are reinforced by the Marxist belief that capitalist nations are compelled to wage war in order to solve their internal problems. The extension of American military and naval power after the last war is taken as so much more evidence of the threat to the U.S.S.R. To guard against this danger the Soviet Government seeks to establish Communist or near-Communist Governments in all the countries on her borders. This has been the more easy because political tyranny and social injustice had flourished in so many of these countries. Soviet statesmen will argue that Communism in these countries is not something imposed on them by Russia but a natural historical development; in their more ambitious moments they will look forward to a world-wide revolutionary movement and an indefinite expansion of the Soviet Union. It is a short step from defensive measures against capitalist intrigue to an active penetration of the non-Communist world.

But the spread of Communism, whether it be a natural tendency or a product of Russian policy, is regarded by the U.S.A. as a threat to her own safety. Moreover, America is a great trading nation whose prosperity depends on the existence, all over the world, of large bodies of people willing and able to buy American goods. She will therefore dislike any violent political movements which interrupt commerce and will hope that social changes may always be made peaceably. Consequently she will appear to some as the champion of peace and order, to others as the enemy of change and protector of the "haves" against the "have-nots." American opinion has also been deeply influenced by the Japanese attack in 1941 which demonstrated that neither America's power nor the vast distances of the Pacific are certain guarantees of safety.

These considerations have led the U.S.A. to seek military, naval and air bases far removed from the American continent and to give economic help to the nations of Western Europe lest the collapse of their political and economic systems should pave the way for Communism. Thus both America and Russia pursue policies which each claim are for her own defence; yet the policy of each one serves to aggravate the suspicions of the other. America sees herself as the protector of democracy against totalitarian Communism; to Russia she appears as a capitalist power using her arms and her wealth to dominate the world.

Great Britain has no desire to become either a republic within the Soviet Union or an economic dependency and military outpost of the U.S.A. The great majority of her people, well accustomed

to democratic government, regard the Communist form of dictatorship with only a little less detestation than that which they felt towards Nazism. At the same time, there are many features of American life—the great inequalities of wealth, the comparatively rudimentary social services, the treatment of Negroes in some parts of the U.S.A.—which repel large numbers of British people. Under the threat of aggression as shown in the blockade of Berlin in 1948 and in Korea in 1950, Britain has strengthened her defences and co-operated with the U.S.A. through the North Atlantic Treaty Organisation, which also includes most of Western Europe and Greece and Turkey. Britain is, however, anxious that measures begun for defence shall not be twisted into a "crusade" against the U.S.S.R. in Eastern Europe or against China in Asia, and that pre-occupation with defence shall not lead to a neglect of opportunities for a peaceful settlement. Together with Western Europe, Britain will want to exercise a moderating influence on both the U.S.A. and the U.S.S.R.

It is not easy for Britain to pursue such a policy without exciting Russian hostility, so long as she receives economic help from America. More production at home and the capacity to stand on her own feet are necessary conditions for an effective British foreign policy. At the same time Britain must satisfy the world that she is a genuine friend to liberty and peace: she may be able to do this by continuing to promote self-government and welfare within her Empire and by taking every opportunity to strengthen the authority of the United Nations. There is therefore no one striking act by which Britain could, as though by the turning of a key, resolve the difficulties of the world; her work for peace, like her recovery at home, must be based on faith, patience and sustained effort.

So much depends at present on the policies of the three strongest powers that it is dangerously easy to under-estimate the importance of the rest of the world. In time, however, the separate nations of Western Europe will be able to exercise a greater influence on policy, the importance of the South American countries will increase, India, Pakistan and China will occupy a position appropriate to their size and population. These developments depend on the economic progress of the countries concerned, and the more speedily they occur, the less the danger of the division of mankind into hostile camps.

CHAPTER XXV

CONCLUSION

This book is called "The British Approach to Politics" because its aim is to describe how Britain is governed and to use that description as a means of giving the reader some insight into those general principles of politics which underlie the forms of government not only of his own country but of all mankind. The facts, outlined in the preceding chapter, which have compelled the world to become one community, do not allow any human being to regard himself as unaffected by politics; for politics is the task, or art, of living and helping others to live in an organised community for the sake of the economic advantages and the enrichment of human personality which such a life confers. To the British, and to any who have grown up in a comparatively well-ordered country, it will at first sight seem strange that this task should be difficult. What the common people expect of their governments is simple enough—to get a fair return for the work they do, to live at peace, to see a prospect of still better times for their children. Yet the record of history is marred by war, oppression, injustice and turbulence; the times and areas of free, peaceful and progressive government are the exceptions and not the rule. Good government does not grow readily, like a weed, in the order of nature; it has to be planted and nurtured by careful and sustained endeavour.

Why is politics so difficult an art? The reason is to be found in certain contrasts and contradictions in the nature of man himself. In the first place, there is the contrast between the speed with which he can alter the physical world by invention and the reverence for tradition which makes him slow to alter his forms of government. Both these qualities have served him well: invention conquers poverty, and worship of tradition can hold a community together in time of adversity. Yet the two acting together produce a world in which men are so dominated by national loyalties that they cannot meet the obvious need for world government. It is good for an individual to form habits, provided he knows why he has formed them, and can change them as need arises; and tradition is to the community what habit is to the individual. In time man may learn to base his loyalties not on the worship of the past because it is the past, but on reasoned conviction, so that tradition becomes his servant and not his master. Until he takes this step in his development he will go on trying to solve the problems of to-day with the ideas and loyalties of a previous age.

A second contrast, frequently observed and commented on, is that between the common good and what are called "vested interests." A privileged class may deny educational opportunity to others and so restrict technical development and economic progress in order to keep for itself the best-paid occupations; it prefers the lion's share of a small cake to a reasonable share of a large cake. Nor is this phenomenon confined to the field of class conflict. A whole group of people, rich and poor, whose livelihood is connected with a particular industry will resist any change which threatens that industry's importance. The Luddite rioters broke machines in defence of the vested interest of the hand-worker; the zealous town councillor who resists an alteration in local government boundaries out of an admirable, if narrow, loyalty is the champion of a vested interest. If these manifestations sprang from deliberate selfishness they would be less serious, since most communities can deal with their avowed enemies. The real fault is a defect of imagination: the person concerned really believes that his interest is the public interest and cannot perceive that a change which reduces his relative importance will give to him and to others an absolute increase in prosperity and opportunity.

In the third place we have to notice that civilisation and progress demand from mankind two contrasting and opposed kinds of virtue. There are the tough or primitive virtues such as courage, energy, endurance and discipline. Without these man would not have survived his prehistoric struggles with cold, hunger and wild beasts; nor, in more recent times would he have achieved such feats as the discovery and development of the Americas and the conquest of the air. There are also the gentle virtues such as kindness, tolerance and the power to appreciate beauty, without which life would be stripped of happiness and dignity. Neither of these groups of virtues can retain its savour in the absence of the other. The tough virtues, by themselves, degenerate into the purposeless ferocity of which Nazism was so striking an example; yet without them no community, however gracious and kindly, can make the technical progress which removes poverty, can cope with natural disasters or save itself from annihilation by more ferocious and less civilised neighbours. In most individuals one or other of these groups of virtues predominates and it is not easy for those of one type to appreciate the attitude, and the value to the community, of the other. The soldier suspects the social reformer and the artist of effeminacy; the social reformer is tempted to regard the soldier as barbarous and the artist as anti-social; the artist, consumed by his own genius, often comprehends no values but those of his art. The community, which needs the services of them all, must try to devise

a system of education which will help each type to judge the others at their true worth. It is, perhaps, because the ancient Greeks had so clear a perception of this need that they were able to lay the foundation stones of modern civilisation.

Fourthly, there is the conflict between the needs of the present and those of the future. A nation in dire need of houses will be tempted to build as fast as it can with little regard to the quality of the building or the wider considerations of town and country planning, and the politics of the next generation will be plagued by this neglect. In the history of Imperialism advanced nations have reduced others to subjection because this was the speediest way of creating some sort of order and developing natural resources; later generations have reaped the harvest of racial ill-will and conflict. Little thought has, indeed, been given to the question "How far ahead ought we to look?" It would clearly be folly to give no thought to the results, in five years' time, of our present policies, but we cannot reasonably be expected to frame our actions for the benefit of our descendants five centuries hence. The problem is complicated by the fact that the energy and drive needed to deal with immediate problems and the imaginative wisdom which perceives the needs of the future are rarely combined in the same personality. In a community faced with an outburst of crime, there may be one man who can speedily organise a force to arrest and punish the offenders, another who perceives the changes in the social system which can prevent the breeding of criminals; but the two are not likely to be the same nor even to have much sympathy with each other. It has been said that a politician is concerned for the next election, a statesman for the next generation; but the true statesman must have both in his mind. To know the right policy for the next generation is of little use unless one can secure the opportunity to put it into effect.

So the successful practice of politics depends on the holding of a proper balance between different qualities of mind—between traditional reverence and scientific curiosity, narrower and wider loyalties, toughness and gentleness, practicality and vision. The great difficulty of this task has frequently been urged as a reason for restricting political power to some group specially fitted by nature or education for its exercise. A review of the real nature of the difficulties will show that this is no solution at all. Conflict between the different virtues and qualities of mind rages just as fiercely among the most gifted as among the most backward and ignorant. It would be difficult to maintain that any of the following were unfitted to share in choosing their form of government:—Cardinal Newman and Charles Darwin; the Duke of Wellington

and John Ruskin; Pericles and Socrates; Lloyd George and H. G. Wells : but would anyone argue that these men, and the different types and loyalties which they represent, could provide mankind with an agreed solution to the great problems of government ? It is true that some men are far more gifted than their fellows, and these will take a leading part, whether as statesmen or philosophers, in shaping the destiny of mankind : but since our real task is to get different types of men to appreciate each other, we are most likely to get the best result if those who lead are constantly obliged to study the needs and wishes of all sorts and conditions of men. This is the purpose of the democratic form of government.

If there are qualities which, more than any others, fit their possessors for the exercise of power, they are not intellect and education but unselfishness and tolerance—the capacity to think of others and to see the good in others. If Nature had been so obliging as to mark on the forehead those who have a double portion of these, we might do well to entrust ourselves to their government. But Nature has not provided any such easy solution.

Experience suggests further arguments against depriving the people as a whole of the power to choose and change their governments. The most obvious of these, and most frequently demonstrated in history, is that a ruling class which cannot be called to account by those over whom it rules will lose such moral standards as it may have originally possessed. Not being compelled, by fear of defeat at the polls, to consider the other fellow's point of view, it will lose the capacity to do so and will rule not only by itself but for itself. A class so situated may live in fear of rebellion, but the measures it takes in consequence have usually been force and espionage rather than conciliation and wise policy. Nor are the evil effects confined to the ruling class. The mass of a population can only be kept in subjection if they are so conditioned and mis-educated that they lose the faculty of questioning and criticism; without this faculty they cannot make any increase to the store of scientific knowledge nor even apply with any skill the discoveries of others; incapable of using science or appreciating art, they become a dead weight halting every advance of the human spirit.

Those who believe that the purpose of creation is the fullest possible development of the personality of every human being will have a final and decisive argument against all forms of anti-democratic government. In all such systems the rulers are deprived of the duty of explaining their actions and seeking the consent of their fellow human beings; the rest are deprived of the exercise of judgment and of responsibility for the conditions of their own lives; in both classes human personality is stunted and maimed.

It is still true that even in a free and democratic society there will be some who take an exceptional part in politics just as others excel in sciences and arts; but to do this they must have the approval and confidence of the people. We must therefore seek to ensure that those who are chosen as leaders in a democracy are those who possess the qualities which help to resolve the contrasts and conflicts of political life. What is required, both of the people as a whole and of the politicians, if this result is to be achieved?

Among the people as a whole there must be, first, a sense of fairness—a willingness to hear conflicting arguments and to judge between them as fairly and sensibly as one's knowledge permits. Second, there must be a desire to increase one's knowledge as far as time and mental capacity allow. Third, there must be that degree of intellectual honesty which enables a man to believe, not what he wishes to believe, but what, on the available evidence, appears to be true. Finally, there must be the willingness to make experiments and take risks. A people that does not strive towards these qualities must blame itself if its political leaders are time-servers and vote-catchers rather than public servants.

It is desirable for everyone to have this much political sense, just as it would be good for everyone to have an elementary knowledge of First Aid and hygiene: but just as we expect a doctor to go beyond this elementary knowledge, so we shall make further demands on the politician. There are the obvious qualities which make up public spirit—honesty, industry and readiness to place the public good before his personal ambition—it is idle to suggest that he should not have ambition, since without it he would not have taken up politics. He must also have good intelligence and the less tangible quality of judgment. He must be able to decide promptly between different courses of action even when full information and evidence is not available. He must cultivate the mysterious gift of "public relations"—the gift, part showmanship and part human sympathy, which enables him to describe problems and advocate policies in a clear and lively manner. In the past, this last gift has done more than any other to advance politicians to power, but there is now a welcome tendency to give increased weight to judgment and public spirit. Intelligence is still, of all the qualities vital to a politician, the one least likely to recommend him to the electorate. On this account we should take care that our educational system does not separate the clever child too soon and too completely from his fellows and so create an unnecessary estrangement between the "plain man" and the "intellectual." The more the people develop the political qualities required of them, the less will the politician have to concern himself

with public relations and the greater will be the importance of his more solid qualities. To pursue the analogy given above, the greater the general level of medical knowledge, the more will doctors be judged by real ability rather than bedside manner.

There is, then, no magical formula that can resolve our political difficulties. Man's task is to seek an ever more just proportion between the conflicting virtues and loyalties out of which his personality is made. It is a great task, but not impossible. We are not required to "change human nature," whatever that oft-quoted phrase may mean, but to use more wisely the qualities of which it is composed, we are like chess-players, who can improve their skill without altering the size of the board or the functions of the pieces. We know from experience that this can be done by education, and the example of the noblest among us in all times and places proclaims the real capacity of human nature. This education is not only the work of schools and colleges but comprises every act and example which the present generation sets before its successors. It works in part on the mind, and in this field it is the process of raising the general level of knowledge so that there is a common background of culture shared by the peoples of all nations and by the clever and the simple in each nation. It works also on the emotions, and here its task is to encourage in every man his innate desire to be liked and admired by his fellows, so that he will turn his fierce and combative instincts against ignorance, poverty, disease and the other enemies of mankind. The great material progress of the last century has so captured our imaginations that we have allowed successive generations to grow up in the belief that the capacity to make money is the most valuable of human qualities. This ill-proportioned view has, more than anything else in recent years, hampered the development of civilisation. Yet mankind has not always made this error and we ourselves are now beginning to remedy it.

We shall be more encouraged to have good hope for man's future if we look back and review his history in its proper perspective. Countless millennia precede the appearance of human life on this planet; the record of any creature which can be called "Man" goes back perhaps a million, perhaps half a million years; out of this vast period, it is only for the last six thousand years that we have anything we can properly call a history of his civilisation. He is a child in the universe, courageous, intelligent, inquisitive, wilful, liable to spells of good and bad temper, discovering new marvels in the earth and new powers in himself, making new tools and toys, new ways of life and patterns of behaviour. His moral standards are so variable, his powers, whether for good or evil, so great and

so rapidly increasing that we dare not prophesy whether he will choose the road that leads to ennoblement or to self-destruction. Our only certainty is that there is no certain limit to his knowledge or his conduct, and we must echo Hamlet, "What a piece of work is man! How noble in reason! How *infinite* in faculties!"

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